

S 731 -- Redline

Amended to Amended -- Requires electric public utilities to develop and apply special rules for large load customers to protect non-large load customers from increased costs.*

Deletions ~~struck~~ · Insertions underlined

S731 ~~2R3R~~ ~~[Second~~[Third Reprint] SENATE, No.

Senators Turner, Beach, Moriarty, Diegnan, Singleton, Mukherji, ~~Cryan~~Cryan, ~~Greenstein~~ and ~~GreensteinMcKnight~~ SYNOPSIS Requires electric public utilities to develop and apply special rules for certain data centers to protect non-data center customers from increased costs.

CURRENT VERSION OF TEXT As amended by the Senate on ~~May~~June 28, 18, 2026.

An Act concerning the provision of electricity to 1[data centers] ~~certain~~3[certain] commercial ~~customers~~1customers1 certain data centers3 and supplementing Title 48 of the Revised Statutes.

~~2[1-21.~~ a. As used in this section: "Board" means the Board of Public Utilities.

~~a- 3["Capacity value" means the quantified reliability contribution of an energy resource, expressed in megawatts, representing the amount of unforced capacity the resource can reliably provide to the grid during system peak demand hours or high-risk operating conditions.] "Capacity resource" means an energy resource, including generation, energy storage, demand response, demand reduction, energy efficiency, or any combination thereof, that the board, consistent with paragraph (7) of subsection b. As of used this in section, this determines section- is capable of contributing to system reliability during periods of peak demand or high-risk operating conditions, and that has been assessed a capacity value pursuant to that paragraph.3 "Board"~~"Co-located generation" means an electric power generation facility that is interconnected directly with a data center customer's electrical load, regardless of whether or not the Board facility is also interconnected with the transmission or distribution system, and regardless of Publicwhether Utilities, or not the customer receives supplemental or backup service from an electric public utility. "Co-located generation" shall not include emergency electric power generation.

~~"Electric public utility" means the same as the term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).~~

~~"Large load 1[data center" means a facility:~~

~~(1) whose primary services are the storage, management, and processing of digital data;~~
~~(2) that is used to house computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems, systems for monitoring and managing infrastructure performance, Internet-related equipment and services, data communications connections, environmental controls, fire protection systems, and security systems and services;~~
~~and (3) has, or is projected to have, a maximum monthly demand of at least] customer" means a commercial customer for retail electric service that is a centralized facility or facilities with a monthly demand of more than 100 megawatts.~~

~~b. No later than 180 days after the effective date of this section, each electric public utility shall file an application with the Board of Public Utilities to establish a tariff for the provision of electricity to large load 1[data centers] customers1. The board may establish rates specific to large load 1[data centers] customers1 for use by an electric public utility in formulating the tariff. The tariff shall be designed to: (1) ensure that 1[non-data center ratepayers are protected from any increased costs that result from increased electricity demand caused by large load data centers; and] other electric public utility customers do not subsidize large load customers and all costs attributable to the electric public utility's large load customers are assigned to the large load customers as determined by the board;1 (2) 1contain protections necessary to ensure that other electric public utility customers are not placed at risk for paying stranded costs associated with the electric public utility serving the large load customer;~~
~~and (3)1 incentivize large load 1[data centers] customers1 to develop and utilize methods to increase energy efficiency, including through the use of technologies that capture and utilize the heat produced by the large load 1[data center] customer1.~~

~~c. The board shall expeditiously review, pursuant to the provisions of section 7 of P.L.1999, c.23 (C.48:3-55) and the rules or regulations adopted pursuant thereto, each application submitted pursuant to this section, and shall approve the application if the board determines that it complies with the requirements of this section and all other applicable laws, rules, and regulations.~~

~~d. Commencing one year after the effective date of this section, an electric public utility shall apply the tariff developed pursuant to this section 1, as approved by the board,1 to each large load 1[data center] customer1 within the electric public utility's service area. The board shall have the authority to determine whether a facility qualifies as a large load 1[data center] customer1 pursuant to this section.~~

~~e. All rates, terms, and conditions established by the board for large load 1[data centers] customers1 shall reasonably protect 1[ratepayers] other electric public utility customers1 against increased 1transmission and distribution1 costs resulting 1[from new transmission, distribution, capacity, or energy rates resulting]1 solely or primarily from serving large load 1[data center]1 customers. In carrying out the provisions of this section, the board shall require each 1electric public1 utility to: (1) ensure that any new large load 1[data]1 customer provides adequate financial guarantees that they will 1[take] pay for1 at least 85 percent of service they request for a period of not less than 10 years from when service commences;~~

~~(2) require any new large load 1[data center]1 customer to demonstrate, to the reasonable satisfaction of the 1electric public1 utility, that the proposed project is unique and not duplicative of any other large load 1[data center] customer1 project, whether located in New Jersey or elsewhere, or to identify the project's interdependencies;~~

~~(3) provide for the posting of deposits or financial security, in a form approved by the board, sufficient to protect ratepayers against a material increase in rates should the large load 1[data center] customer1 project cease operations or take less service than anticipated over the 10-year period beginning when service commences;~~

~~and (4) implement other provisions that the board deems necessary to protect ratepayers. The board may approve 1electric public1 utility rate filings that relax the requirements of this subsection if a large load 1[data center] customer1 commits to providing sufficient operational flexibility or commits to bringing additional sources of energy and capacity online to meet its load, such that these requirements are not necessary to protect ratepayers.]2~~

~~21. a. As used in this section: "Board" means the Board of Public Utilities.~~

~~"Capacity value" means the quantified reliability contribution of an energy resource, expressed in megawatts, representing the amount of unforced capacity the resource can reliably provide to the grid during system peak demand hours or high-risk operating conditions.~~

~~"Co-located generation" means an electric power generation facility that is interconnected directly with a data center customer's electrical load, regardless of whether or not the facility is also interconnected with the transmission or distribution system, and regardless of whether or not the customer receives supplemental or backup service from an electric public utility. "Co-located generation" shall not include emergency electric power generation.~~

The standards shall be developed with stakeholder input and designed to: (1) ~~identify~~identify the appropriate defining characteristics of a "large data center" and a "large data center customer" for each electric public utility including, but not limited to, minimum megawatt size designation, which shall not be greater than 50 megawatts. For the purpose of defining "large data center," the board shall aggregate the peak monthly ~~compute~~3[compute] and ~~compute-related~~compute-related3 energy demand of any data centers that are under common ownership or control, located on the same site or contiguous sites, or share substantial physical, operational, or interconnection infrastructure, and shall treat such aggregated facilities as a single large data center;

(2) ~~ensure~~ensure that other electric public utility customers do not subsidize large data center customers and that all costs attributable to the electric public utility's large data center customers are allocated to 3those large data center customers, including, but not limited to, the costs of any infrastructure investment related to generation, transmission, distribution, or substation facilities incurred solely or primarily to serve that customer;

(3) ~~ensure~~ensure that other electric public utility customers are not at risk of paying for stranded costs associated with an electric public utility serving large data center customers; (4) ~~incentivize~~incentivize large data center customers to develop and utilize methods to increase energy efficiency, including through the use of technologies that capture and utilize the heat produced by large data center customers;

(5) ~~incentivize~~incentivize large data center customers to bring their own 3new clean generation or energy storage to meet their 3energy needs;

(6) ~~develop~~develop a framework for the tariff treatment of large data center customers served in whole or in part by co-located generation, to ensure that such customers pay an appropriate share of transmission, distribution, capacity, reliability, and public benefit costs attributable to their actual or potential use of the electric public utility system;

(7) ~~identify~~identify the appropriate assessment method for electric public utility evaluation ~~of~~3[of] the capacity ~~value~~value3 of any capacity 3resources procured by large data center customers, which shall be aligned with the ~~energy~~3[energy resource's]3 accredited effective load carrying capability or equivalent performance metric recognized by the regional transmission ~~organization~~organization 3for energy resources procured, and an appropriate adjustment factor recognized by the regional transmission organization for load reductions procured, both to be set at the time of procurement3 ;

(8) ~~require~~require that each electric public utility submit Large Load Adjustments ~~and~~3[and] 3 Peak Shaving Adjustments 3, and customer peak load contribution3 to the regional transmission organization or

any successor organization, which shall provide for inclusion of both the aggregate amount of anticipated new or expanded data center electrical load, as well as the aggregate amount of resources a large data center customer has procured to meet their energy needs;

(9) ~~identify~~identify the appropriate parameters for demand-reduction trade programs each electric public utility shall make available to ~~large3[large]3~~ data center customers. The parameters shall: (a) delineate eligible categories of demand-reduction measures ~~large3[large]3~~ data center customers may take directly or contractually procure from third parties, such as incremental energy efficiency improvements, demand response enrollment, behind-the-meter energy storage, and managed electrification; (b) ensure sufficient protocols to demonstrate that the demand reductions are quantifiable, additional, coincident with the periods of system or local need, and measured using advanced metering infrastructure to read, and settle on an interval basis, the customer accounts associated with demand reduction measures;

(10) ~~prioritize~~prioritize the interconnection of large data center customers who make binding commitments in fulfillment of the objectives stated in paragraphs (5) or (9) of this subsection;

(11) ~~ensure~~ensure the priority curtailment of large data center customers before residential customers, excluding designated critical load, under system emergencies. Any such curtailment shall be considered firm load shed;

(12) ~~establish~~establish application and screening standards that require any prospective large data center customer of an electric public utility to disclose any substantially similar request for interconnection or electric service pending before any other utility, whether located in New Jersey or elsewhere, and to describe the relationship of those requests to the proposed project, so that the electric public utility may appropriately plan its system and avoid duplicative or stranded infrastructure investment, subject to reasonable protections for commercially sensitive information;

and (13) ~~address~~address any other challenges posed by timely interconnecting or serving large data center customers as identified by the board, including measures to ensure that no person evades the requirements of this section through corporate structuring, project segmentation, behind-the-meter configurations, off-tariff arrangements, or other similar arrangements.

d. All rates, terms, and conditions approved by the board for large data center customers shall reasonably protect other electric public utility customers against increased transmission and distribution costs resulting entirely or nearly entirely from serving large data center customers, and promote reduction of those costs by enhancing utilization of the electric grid. In carrying out the provisions of this section, the board shall require each electric public utility to: (1)

~~ensure~~ensure that any ~~new3[new]3~~ large data center customer provides adequate financial guarantees that it will pay for at least 85 percent of the ~~service3[service] electricity supply3~~ it requests for a period of 10 years from when service commences or as otherwise determined in the board's standards;

(2) ~~provide~~provide for the posting of deposits, financial security, or, for ~~3large3~~ data center customers with sufficiently high credit ratings, financial commitments, in respective forms approved by the board, sufficient to protect ratepayers against a material increase in rates should the large data center customer cease operations or take less service than anticipated over the 10-year period beginning when ~~service3[service] electricity supply3~~ commences, and authorize the board to approve a stranded cost recovery mechanism applicable exclusively to the large data center customer class to recover any costs not otherwise covered by the deposits, financial security, or financial commitments;

(3) ~~provide~~provide large data center customers whose load or procured capacity is to be included in a Large Load Adjustment, Peak Shaving Adjustment, or successor form of submittal to the regional transmission organization or any successor organization with an accounting of the quantities of their load or procured capacity to be included and an opportunity to correct any such data prior to submission. To the extent that a large data center customer's load has been included in a Large Load Adjustment submitted to the regional transmission organization or successor organization, the board shall ensure that payment by that large data center customer is proportionate to its share of the costs allocated by the regional transmission organization to the electric public utility of a Reliability Backstop Procurement auction or successor mechanism administered by the regional transmission organization. Any large data center customer's share of such costs shall be reduced by that customer's procurement of ~~supply,3[supply]~~, storage, or demand ~~reductions, reductions]~~ capacity resources3, including any voluntary procurement under ~~paragraphs3[paragraphs] paragraph3~~ (4) ~~or3[or (5)(5)]3~~ of this subsection;

(4) ~~develop~~develop a voluntary demand-reduction trade program through which ~~large3[large]3~~ data center customers may contract directly with a third party for, or otherwise fund, verified demand flexibility by other customers on the same electric public utility system. In developing the trade program, each utility shall:

(a) ensure that no part of the cost of the transaction is recovered through rates established by the board for any other ratepayer and that any benefit in the form of the capacity reduction is allocated to the ~~large3[large]3~~ data center customer who has paid for the benefit, either by crediting a load serving entity undertaking the demand reduction and serving the ~~large3[large]3~~ data center customer, or by assigning the capacity benefit to the ~~large3[large]3~~ data center customer as an offset to its peak load contribution value as contemplated in paragraphs (3) and (6) of this subsection; (b) prohibit double-

counting of demand reductions claimed for compliance under this subsection and demand reductions claimed under any other state or federal program, other than as contemplated in paragraphs (3) and (6) of this subsection;

(c) design the program for compatibility with 3the load forecasting methods of the regional transmission organization,3 the Peak Shaving Adjustment of the regional transmission organization, or any similar mechanism used to reduce capacity needs, so that demand reductions verified under the program are reflected in the load forecast used by the regional transmission organization to procure capacity, including any capacity procured under a backstop auction or similar mechanism;

(5) ~~require~~require demand flexibility commitments by large data center customers, which shall include at least one of the following: (a) commitments to curtail or reduce load, excluding designated critical load, during system emergencies, transmission constraints, and peak demand periods as directed by the electric public utility or the regional transmission organization;

(c) participation in a voluntary demand-reduction program developed pursuant to paragraph (4) of this ~~subsection, subsection 3[,] ;3~~ or (d) until such time as the board adopts standards for voluntary demand-reduction programs and approves a program for the respective electric public utility, other contractual flexibility commitments that the board determines reasonably meet the substantive requirements of paragraph (4) of this subsection;

(6) ~~to~~to the extent that a large data center customer has procured ~~supply,3[supply,~~ storage, or demand ~~reductions, reductions]~~ capacity resources3, including but not limited to voluntary procurement as contemplated under paragraphs ~~(4)3[(4) or (5)3(5)] (3) or (4)3~~ of this subsection, ensure protection of that customer from advanced curtailment ahead of other firm load ~~pursuant3[pursuant to] that may otherwise be required by3~~ a "connect and manage" or successor program administered by the regional transmission organization; (7) ~~require~~require annual reporting of actual flexibility performance to the board;

(8) ~~require~~require any new large data center customer to pay the reasonable costs of any interconnection, system impact, and facilities studies undertaken by the electric public utility;

(9) ~~assess~~assess the capacity value of total capacity 3resources3 procured by a large data center customer to meet its energy needs. The value of the capacity shall be determined at the time of the electric public utility's initial assessment and any future changes in determining the system, local, or other value of that capacity shall not affect any allocation of costs or curtailment for purposes of paragraphs (3) or (6) of this subsection;

of this section, an electric public utility shall apply the tariff developed pursuant to this section, as approved by the board, to each large data center customer within the electric public utility's service area ~~solely3[solely~~ with respect to that customer's new large data ~~centers, centers]3~~ . The board shall have the authority to determine whether a customer qualifies as a large data center customer pursuant to this section.

g. ~~To3Notwithstanding the any extent other that provision of this section to the regional contrary, transmission organization large establishes data deadlines center or approved processes by for an electric capacity public auction, utility including to a receive backstop service reliability prior auction, to that the precede effective date of this act shall not be subject to the deadlines provisions of subsections paragraphs b, (1), (2), and (8) of subsection d.~~

of this section with respect to such service, but shall otherwise remain subject to the provisions of this section, including the requirements of paragraphs (3), (4), (5), (6), (7), and (9) of subsection d. of this section. With respect to a large data center approved by an electric public utility to receive service prior to the effective date of this act, the board may provide for a reasonable phase-in of the cost allocation required under paragraph (3) of subsection d.

of this section. The exemption provided by this subsection shall not be diminished by the renewal, extension, or amendment of an agreement for the approved service, and shall not extend to any application for new or expanded service above the megawatt threshold established pursuant to paragraph (1) of subsection b.

of this section. The exemption provided by this subsection shall apply only to the megawatts of service approved before the effective date of this act, and any service above that approved quantity, whether or not aggregated with the approved service pursuant to paragraph (1) of subsection b.

of this section, shall be subject to the tariff developed pursuant to subsection c. of this section.

h.3 To the extent that the regional transmission organization establishes deadlines or processes for a capacity auction, including a backstop reliability auction, that precede the deadlines of subsections b.

~~h.3[h.] i.3~~ Any rate or service agreement entered into between an electric public utility and a large data center customer, whether pursuant to a tariff approved under this section or pursuant to section 3 of P.L.1995, c.180 (C.48:2-21.26) or any other authority, shall satisfy the substantive requirements of subsection d.

~~Any rate or service agreement entered into between an electric public utility and a large data center~~

~~customer, whether pursuant to a tariff approved under this section or pursuant to section 3 of P.L. 1995, c. 180 (C.48:2-21.26) or any other authority, shall satisfy the substantive requirements of subsection d.~~
~~i. 3[i.] Nothing~~~~j.3 Nothing~~ in this section is intended to, or shall be construed to, affect or displace the exclusive jurisdiction of the Federal Energy Regulatory Commission over wholesale sales of electric energy or capacity, or over rates, terms, and conditions of electric transmission service, under the "Federal Power Act" (16.

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