Regulatory, Policy, and Technology Trends Digest

November 14, 2025

Dear DCFlex Advisor,

Thank you for your participation in DCFlex, which explores how flexible data center operations can support the electric grid, enable better asset utilization, and advance the energy transition. We are pleased to issue our fifth “Regulatory, Policy, and Technology Trends Digest”, a product of *Workstream 2 – Transformational Utility Programs*, which showcases notable developments and trends in regulations, policies, power agreements, and energy technologies relevant to data centers, large load flexibility, and their integration with the grid.

In this Issue

In wholesale markets, FERC’s jurisdiction with respect to the interconnection of large load customers remains a hot button issue. Animating this discourse is the DOE’s guidance for FERC to expand its jurisdiction over large loads connecting at the transmission level, balanced by the precedent for FERC not to intervene in the approval of tariffs, which falls in the purview of state regulation. Meanwhile, NERC is seeking to advance reliability guidelines for the connection of large loads.

In retail markets, utilities continue to seek state regulatory approval to create new customer classes with distinctive tariffs specifically for large load customers bearing load metrics characteristic of data centers. Recently filed examples in Oregon, Florida, Delaware, Kansas, and Michigan specify tariffs with eligibility factors essentially designed for large data centers while not singling them out explicitly. These tariffs specify such customer requirements as contract term, minimum billing, collateral, and exit fees.

In power supply news, Meta announced a PPA for large scale solar for its 1 GW data center under construction in El Paso, Texas.

Wholesale Markets

DOE directs ANOPR on large loads to FERC

On October 23, 2025, U.S. Secretary of Energy Chris Wright directed FERC to "initiate rulemaking procedures and proposal regarding the interconnection of large loads," and supplied an advanced notice of proposed rulemaking (ANOPR). The ANOPR suggests FERC should have greater jurisdiction over large load interconnections at the transmission level, similar to existing authority over generation.

Separate from legal jurisdiction, the ANOPR lays out 14 principles for reform. While not explicitly using the term, two principles that point to flexible data center operation. The seventh suggests curtailment or dispatchability could lead to faster connections as the system operator would be better able to include the load in planning and operations. The twelfth points to the need for large loads to provide ancillary services based on peak demand. Both are issues being discussed and explored in DCFlex.

Additionally, principles cover interconnection processes and agreements similar to the large generation interconnection agreement (LGIA), need for cluster or series assessment with cost allocation to large loads, more studies for resource adequacy and transmission reliability, and NERC involvement through standards for reliability services. This direction, under section 403 of the Department of Energy Organization Act, will spark continued conversation in the industry. Comments are currently being collected.

Further Reading: DOE ANOPR

DCFlex will publish further insights after public comments are published.

NERC seeks comments on a preliminary Reliability Guideline titled "Risk Mitigation for Emerging Large Loads"

The Large Load Task Force at NERC is seeking comments on a recently published primary guideline on large load risk mitigation. The guidelines cover a range of topics including long term planning and resource adequacy, operations and balancing, power quality, physical and cyber security, resilience, restoration, and blackstart. The task force points out that the guidelines would be voluntary but could inform future standards. They also acknowledge that historically loads have been passive without need to contribute to reliability and are now being considered to take an active role.

Further Reading: Preliminary Guidelines

FERC rejects Tri-State's High Impact Load tariff over retail jurisdiction issues

On October 27, 2025, FERC rejected a High Impact Load (HIL) tariff proposed by Tri-State Generation and Transmission Association ("Tri-State"), concluding that the tariff constitutes retail rate regulation, which falls exclusively under state jurisdiction and is therefore outside of FERC's authority.

Tri-State's proposed HIL tariff would have applied to large load customers, principally data centers, located in the territories of its 40 cooperative members across its four-state footprint of Colorado, Nebraska, New Mexico and Wyoming. Tri-State's stated objective for the HIL tariff was to protect its members from financial risks associated with capital investments in transmission and generation required to connect large loads, including provisions to avoid shifting the cost burden to existing ratepayers.

Tri-State claimed that the HIL falls within FERC's authority because FERC had previously approved Tri-State's demand response program. However, FERC drew a distinction between the two offerings, asserting that Tri-State's demand response program only set technical requirements for its members' demand response resources to qualify for incentives from Tri-State's demand response programs, whereas the HIL tariff places terms and conditions on the retail sale of electricity.

Among the intervening stakeholders was the Data Center Coalition, which opposed Tri-State's proposal on grounds that Tri-State is outside of FERC's jurisdiction.

FERC's decision comes as it considers the DOE's request that the agency develop rules for interconnecting large loads to the transmission system.

Further Reading: FERC Decision. Docket No. ER25-3316-000

Retail Markets

Pacific Power files for new data center tariff in Oregon

On October 2, 2025, Pacific Power, a subsidiary of PacifiCorp, filed a proposal to establish a new rate and customer class for new data centers with demand of 20 MW or more. The proposed *Schedule 401 – Service to New Large Energy Use Facilities* was filed in compliance with Oregon House Bill 3546, which requires the Oregon Public Utilities Commission (Oregon PUC) to establish a new customer class for certain large customers, effectively data centers. The tariff would require each applicable data center customer to enter a Large Energy Use Facility Agreement with the utility that must be approved by the Oregon PUC.

In addition, the proposed Schedule 401 provides for the data center customers to be directly assigned the costs associated with serving them. According to the filing, this is designed to mitigate cost shifts "and any other unwarranted cost impacts to other retail customers." Further, the customer agreements would include a term of 10 years or more, and requirements for minimum payment amounts based on the customer's projected usage. The agreements may also include charges for excess demand, and provisions for unique credit, deposit, and security collateral.

Finally, as proposed, Schedule 401 would require the data center customer agreements to "provide for equitable contributions to grid efficiency, reliability and resiliency benefits." The filing also states that the agreements must not "impede the [utility's] ability to meet…clean energy [or emissions reduction] targets," and it allows customers to procure or contract for generation resources that support the achievement of those targets.

Further reading: Oregon PUC Advice No. 25-015

Duke Energy Florida proposes new rate class, tariff, and policy for large loads

In early September, Duke Energy Florida (DEF) filed with the Florida Public Service Commission (Florida PSC) a proposal that includes new terms of service for large loads. The filing proposes a new Large Load Customer (LLC) rate class and a new optional Large Load Customer rate schedule (LLC-1), both of which would be effective in January 2028. LLC-1 features higher demand charges and lower energy charges, compared to DEF's General Service – Demand tariff, which, according to the utility's filing, may be attractive for large customers with high load factors, such as data centers.

In addition, DEF seeks to establish a new Large Load Customer Policy (LLCP) that would apply to new customers (or expansions) with forecasted peak demand of at least 100 MW and transmission service voltage of 230 kV or higher. The LLCP would require eligible customers to execute a Large Load Customer Agreement (LLCA), with terms designed "to help ensure new large load customers fairly contribute to the cost of serving their load." The proposed provisions in the LLCA include (1) minimum "take-or-pay" requirements of 75% to 85% of contracted capacity, (2) contract terms of 15 to 20 years, (3) early termination fees and notice requirements, and (4) collateral requirements that vary depending on the amount being secured and the customer's creditworthiness.

Further Reading: Florida PSC Docket 20250113

Delaware PSC opens docket for large load tariff

On October 15, 2025, to help ensure data centers do not shift costs to other customers, the Delaware Public Service Commission (Delaware PSC) agreed to open a docket to develop a large load tariff for Exelon subsidiary, Delmarva Power & Light (DPL). The order also paused the interconnection of new large load facilities in the utility's territory until the large load tariff is established. The docket is in response to a joint petition from the Delaware Division of the Public Advocate (DPA) and Staff for the Delaware PSC (Staff), which also requested the Delaware PSC to authorize Staff to conduct stakeholder workshops to develop the components of the large-load tariff, which would apply to customers with demand of 25 MW or greater.

Further Reading:

- Delaware PSC Docket 25-0826
- Delaware PSC Press Release

Kansas approves Evergy large-load tariff

On November 6, 2025, the Kansas Corporation Commission (KCC) unanimously approved Evergy's application for a tariff that applies to new customers with a minimum contracted peak load of 75 MW or existing customers seeking to expand service by at least 75 MW. The decision culminated numerous filings and negotiations that included stakeholders such as environmental organizations, a data center association and school districts. Customer requirements under the tariff include: (a) minimum contract term of 12 years plus an optional 5-year ramp up period; (b) minimum payment commitment of 80% of contracted demand even in low-usage months; and (c) posted collateral equivalent to two years of minimum bills. Ending a contract early would trigger payment of exit fees equal to the minimum bills over the remaining contract months.

Further Reading:

- KCC Docket 25-EKME-315-TAR, Motion for Approval
- KCC of Docket 25-EKME-315-TAR, Order Approval

Michigan PSC approves Consumer Energy large-load tariff

On November 6, 2025, the Michigan Public Service Commission (MPSC) approved Consumers Energy's application in Case U-21859 to amend its General Service Primary Demand (GPD) rate tariff with new rules for customers with a minimum service threshold of 100 megawatts (MW), or aggregated loads of 100 MW with individual sites of at least 20 MW under common ownership. This amendments effectively apply to data centers.

The commission added provisions to ensure that other ratepayers are not subsidizing data center costs, while leveraging potential system benefits created by large, consistent data center demand.

Requirements for applicable customers under the amended tariff include:

- Minimum 15-year contract term, with a possible ramp-up period of up to 5 years
- Five-year automatic extensions, with four years' notice required for termination
- Minimum monthly billing at 80% of contract capacity
- Upfront project proposal fee of $100,000
- Exit fee equal to the minimum monthly bill for the agreement's remaining months. Consumers Energy must attempt to mitigate this cost, potentially by reallocating unused capacity.
- Default collateral requirement equal to half of the required exit fee, decreasing over the contract term, through a standby irrevocable letter of credit or cash
- With four years' notice, customers may request a one-time capacity reduction of up to 10 percent
- Possible service suspension if demand exceeds contracted capacity by over 1 MW

Further reading:

- MPSC Press Release
- MPSC Order, Case No. U-21859

Powering Data Centers

Meta commits to renewables PPA for 1 GW data center under construction in Texas

On October 15, 2025, Meta announced a partnership with the city of El Paso, Texas to build a 1 GW AI-focused data center whose electricity use will be matched with renewable energy through new solar power purchase agreements with El Paso Electric Co.

Under the deal, Meta says that it will fund transmission and substation infrastructure required for interconnection. This data center, Meta's third in Texas, is expected to come online in 2028. Meta is investing over $1.5 billion in first phase of construction.

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Each Regulatory, Policy, and Technology Trends Digest issue is a curated selection of timely and impactful regulatory and policy highlights with succinct contextual commentary and resources for deeper dives. Our aim is for these digests to become essential reading to provide you with broad perspective and insight.

DCFlex will continue to monitor relevant regulatory and policy developments and keep you informed of key filings, proceedings, decisions, and their implications.

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