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BILL NO.:	House Bill 900 – Electricity – Data Centers – Rate Schedule and Requirements
COMMITTEE:	Economic Matters Committee
HEARING DATE:	February 20, 2025
SPONSOR:	Delegate Wilson
POSITION:	Favorable

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The Office of People's Counsel ("OPC") supports House Bill 900 because it ensures that data center customers pay the system costs that they cause, therefore reducing the risk of stranded assets and protecting residential customers from subsidizing potentially stranded assets.

HB 900's tariff requirements mirror similar customer-protective tariff proposals in Ohio[1] and Indiana,[2] and a recently approved rule in Georgia.[3] HB 900 requires electric companies operating in the state of Maryland to create specific tariffs applicable to data center customers with monthly maximum demand of more than 2,500 kilowatts ("KW") on or before July 1, 2026, and requires the Public Service Commission to adopt effectuating regulations on or before January 1, 2026.

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[1] Howland, Ethan "AEP Ohio reaches agreement with stakeholders on data center interconnection rules", *Utility Dive*, https://www.utilitydive.com/news/aep-ohio-data-center-agreement-stakeholders-indiana-epri/730873/ (Oct. 24, 2024).

[2] Bonilla Muñiz, Leslie "Ratepayer advocates hail 'landmark' settlement with data centers, utility company" https://indianacapitalchronicle.com/2024/11/26/ratepayer-advocates-hail-landmark-settlement-with-data-centers-utility-company/ (Nov. 26, 2024).

[3] Lyden, Meleah "Data centers will need to bear the cost of their electricity acquisition' | Georgia PSC approves new rule for data centers", *11 Alive*, https://www.11alive.com/article/news/local/georgia-public-service-commission-approves-new-rule-data-centers-effort-protect-ratepayers-cost-shifting/85-9e43defd-379b-406a-ba1c-16e7d02b659e?utm_medium=email (Jan. 23, 2025).

The data center tariffs under HB 900 must include, at a minimum, the following:

- a four-year ramp-up period to full service—referred to as a "load ramp"— beginning at 50 percent of contract capacity in year one and ending at 90 percent of contract capacity in year four, after which the facility can run at full capacity;
- an initial contract term of not less than the four-year load-ramp period plus twenty years, for a total of 24 years;
- end-user (i.e., data center) financial responsibility for minimum service charges for the initial contract term, even if the customer chooses to curtail, reduce, suspend, or terminate service; or, if the customer decides to terminate electric service after completing ten years of the contract term post-load-ramp period, payment of an exit fee equal to minimum charges for 120 months of service;
- monthly payment of the distribution and transmission billing demand requirement of no less than 90 percent of the customer's contract capacity;
- a guarantee or collateral at the time of contract execution that equals 50 percent of the total minimum service charges for the full contract term; and
- a reimbursement provision for any buildout costs if the customer cancels or delays the data center project for more than twelve months.

Under current ratemaking policies, data center-induced load growth poses risks to Maryland ratepayers because large costs required to upgrade distribution and transmission networks would be socialized across all ratepayers, not just data center customers. When network upgrades necessary to serve a data center customer are built, customers pay for those upgrades in rates over many decades. If the data center customer does not remain on the system for all of that time—or reduces its consumption during that time—some of the network upgrades may become unnecessary and the costs "stranded" and likely recovered from other customers absent the provisions in this bill.

OPC strongly supports efforts to mitigate these impacts through the tariff provisions required by HB 900. These requirements shift the risk of paying for unnecessary network upgrades from all ratepayers to the cost-causers: data center customers. OPC has serious concerns that data center-driven prospective load-growth forecasts include speculative load that will fail to materialize.[4] Without tariff requirements such as minimum initial contract terms and exit fees, utilities would have no way to recover costs from the data center developer or customer if a site is abandoned

[4] *See, e.g.*, *Letter from OPC to the PJM Board of Managers* (Jul. 18, 2024), https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2024/20240718-med-opc-letter-to-pjm-board.pdf.

after extensive network upgrades are built to accommodate the large electricity demand of a new data center. Additionally, a collateral requirement ensures that any exit fees or buildout reimbursement for abandoned projects can be paid. The tariff requirements thus lock-in developers to their projects and ensure that any network upgrades are paid for by the customer that creates the need for the upgrades and will not become a stranded asset.

Moreover, regulations effectuating HB 900 and the concomitant drafting process will provide a meaningful opportunity for relevant stakeholders, such as the utilities, OPC, and data center customers to further refine tariff requirements. Legislative minimums and guidance are the first step in structuring the necessary oversight of data center resource requirements and will offer ratepayers much-needed protection against paying for infrastructure built for other customers.

Recommendation: OPC requests a favorable Committee report on HB 900.