HB 900

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 900 (Delegate Wilson)
Economic Matters

Electricity - Data Centers - Rate Schedule and Requirements

This bill requires, by July 1, 2026, each electric company to submit to the Public Service Commission (PSC) for approval a specific rate schedule for data centers and mobile data centers, as defined, subject to specified requirements. Generally, those data center customers must take service under that schedule and may not be allowed to take service under any other existing schedule. The bill does not preclude an electric company from placing any other terms or conditions of service on a customer beyond the conditions required for a contract under a specific rate schedule. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: PSC and the Office of People's Counsel (OPC) can handle the bill's requirements with existing budgeted resources. The effect on State finances due to changes in data center-related revenues cannot be reliably determined at this time.

Local Effect: The effect on local finances due to changes in data center-related revenues is unknown. Municipal electric utilities are also affected.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Specific Rate Schedules Generally Required for Data Centers

By July 1, 2026, each electric company must submit to PSC for approval a specific rate schedule for data centers and mobile data centers, as defined. Service under the specific rate schedule must be available to customers that operate a data center that will use, within the initial contract term, either (1) a monthly maximum demand of more than 2,500 kilowatts at a single location or (2) an aggregated contract capacity in the electric company's service territory of more than 2,500 kilowatts.

Generally, customers that qualify for a specific rate schedule after the effective date of the schedule must take service under that schedule and may not be allowed to take service under any other existing schedule. However, a specific rate schedule does not apply to an existing data center customer that has signed a service agreement before the effective date of the schedule in limited specified circumstances.

Requirements for Approval by the Public Service Commission

PSC may not approve a specific data center rate schedule submitted under the bill unless specified requirements related to the contracts for service are met:

- The load ramp period under the schedule may be no more than four years and the initial total contract length must be at least 20 years, plus the ramp up period. The load ramp contract capacity, as defined, has specified minimums in years one through four.

- The data center customer is financially responsible to pay minimum service charges under the initial contract term, or, at least ten years after the ramp up period, may pay an exit fee equal to 120 months of minimum charges.

- The contracts must include minimum monthly distribution and transmission billing amounts of at least 90% of the customer's contract capacity, as defined.

- Before signing a contract for service under the schedule, the data center customer must designate a specific site that the customer owns or has exclusive access to for the project and (1) submit a request for a load study to determine the necessary contract capacity for the customer and pay any applicable fees associated with the study; (2) unless waived by PSC, provide a guarantee or collateral at the time of signing the contract equal to 50% of the total minimum charges for the full term of the contract; and (3) agree to reimburse the electric company for 100% of its associated buildout costs if the customer cancels or delays the project by more than 12 months.

Regulations

By January 1, 2026, PSC must adopt regulations to carry out the bill, which must (1) establish minimum notice requirements and deadlines related to load study requests and contract terminations and adjustments; (2) specify common forms of acceptable collateral to satisfy the requirements described above; and (3) establish deadlines related to completion of load studies and payment of fees.

Choptank Electric Cooperative Included

The above provisions apply to a member-regulated cooperative, as defined in the Corporations and Associations Article (in practice, Choptank Electric Cooperative).

Current Law:

Electric Company Rates and Customer Connections with Excess Costs

PSC must, by regulation or order, require the unbundling of electric company rates, charges, and services into standardized categories determined by the commission, including distribution and transmission, customer charges, and taxes. PSC regulations require each electric company to file a copy of its tariff with the commission, which must include:

- each schedule of rates for service, together with applicable riders; and
- the company's rules, or terms and conditions, describing its policies and practices in rendering service.

The policies and practices must include, among other information, the company's plan for the installation of main and service lines where these facilities are in excess of those included in the regular rates for service and for which the customer must be required to pay all or part of the cost. The customer's payments should be related to the investment that the company prudently can make in consideration of the probable revenue.

Just and Reasonable Rates

A public service company (which includes an electric company) must charge just and reasonable rates for the regulated services that it renders. Generally, PSC has the power to set a just and reasonable rate of a public service company, as a maximum rate, minimum rate, or both. A "just and reasonable rate" means a rate that:

- does not violate any provision of the Public Utilities Article;
- fully considers and is consistent with the public good; and

- except for rates of a common carrier, will result in an operating income to the public service company that yields, after reasonable deduction for depreciation and other necessary and proper expenses and reserves, a reasonable return on the fair value of the public service company's property used and useful in providing service to the public.

Rate Discrimination Generally Prohibited

Except in limited specified circumstances, for any service rendered or commodity furnished, a public service company may not directly or indirectly, by any means, including special rates, rebates, drawbacks, or refunds:

- charge, demand, or receive from a person compensation that is greater or less than from any other person under substantially similar circumstances;
- extend a privilege or facility to a person, except those privileges and facilities that are extended uniformly to all persons under substantially similar circumstances;
- discriminate against a person, locality, or particular class of service; or
- give undue or unreasonable preference to or cause undue or unreasonable prejudice to a person, locality, or particular class of service.

For example, an exemption applies to electricity or gas service provided to eligible limited-income customers through a PSC-approved limited income mechanism.

Public Service Company Franchise Tax

Persons engaged in a telephone business in Maryland or the delivery, transmission, or distribution of electricity or natural gas in Maryland must pay the public service company franchise tax.

For telephone, electric, and gas companies, a tax is imposed measured by the company's gross receipts. Gross receipts are defined as the total operating revenues of the public service companies, excluding revenue derived from an activity other than a telephone, electric, or natural gas business. For electric and gas companies, a second tax is imposed measured by the kilowatt-hours of electricity or therms of natural gas delivered for final consumption in the State. The tax for the preceding calendar year must be paid annually by April 15.

The rate for the gross receipts component of the tax is 2% of gross revenues. The rate of the distribution tax imposed on electric and gas companies is 0.062 cents per kilowatt-hour for electricity delivered for final consumption and 0.402 cents per therm for natural gas delivered for final consumption. The revenues are distributed to the general fund. Public service company franchise tax revenues are estimated to be $155.5 million in fiscal 2026 and $163.7 million in fiscal 2030.

Data Centers

Chapter 640 of 2020 established a sales and use tax exemption for the sale of qualified data center personal property for use at a qualified data center. "Qualified data center" means a data center located in the State in which an individual or a corporation, within three years after submitting an application for the sales and use tax exemption, has invested at least $5.0 million (for a data center located within a Tier I area, $2.0 million) in qualified data center personal property and created at least five qualified positions. "Qualified data center" includes (1) a data center that is a co-located or hosting data center where equipment, space, and bandwidth are available to lease to multiple customers and (2) an enterprise data center owned and operated by the company it supports.

Chapter 411 of 2024 requires, after certain existing required distributions, the Comptroller to distribute 15% of the remaining income tax revenue from corporations that is attributable to qualified data centers that are operational on or after January 1, 2026, to the Strategic Energy Investment Fund.

State Fiscal Effect: The bill requires PSC to conduct a rulemaking and to review and approve tariffs from all electric companies in the State by January 1, 2026. As part of that overall process, and before the rulemaking proceeding, PSC advises that it must convene a workgroup with electric companies, stakeholders, and other interested parties. Both the workgroup and the rulemaking will require substantial effort and time. The bill is applicable to all electric companies, so PSC anticipates receiving multiple tariff filings simultaneously. However, PSC advises that it can handle the bill's requirements with existing budgeted resources. OPC likewise advises that it can participate in the rulemaking process with existing budgeted resources.

The effect on State finances due to changes in data center-related revenues cannot be reliably determined at this time, although the most direct potential effect appears to be on the public service company franchise tax, which accrues to the general fund, with any potential effects beginning as early as fiscal 2027. If the data center industry grows substantially, the effect could be significant in the out-years.

Local Fiscal Effect: Some local governments collect taxes on electricity delivered or used in their jurisdictions – for example, Baltimore City and Anne Arundel, Baltimore, Montgomery, Prince George's, and St. Mary's counties; however, the effect on local revenues, including any municipalities that may collect similar taxes, due to the changes in data-center related revenues cannot be reliably determined at this time. If the data center industry grows substantially, the effect could be significant in the out-years.

There are also five municipal electric utilities, serving the cities of Berlin, Easton, Hagerstown, Thurmont, and Williamsport, that must file revised data center tariffs for approval with PSC under the bill, which creates both an operational effect and a potential fiscal effect for those municipalities.

Additional Comments: In practice, PSC has limited jurisdiction over Choptank Electric Cooperative, as it is a "member-regulated cooperative" for the purposes of Title 5, Subtitle 6 of the Corporations and Associations Article.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Public Service Commission; Office of People's Counsel; Maryland Municipal League; Department of Legislative Services

Fiscal Note History: First Reader - February 14, 2025
km/lgc

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