EARTHJUSTICE

February 13, 2025

Chair Brian J. Feldman
Members of the Senate Education, Energy, and the Environment Committee

Re: Earthjustice support for SB 116:
Data Center Impact Analysis and Report

Earthjustice[1] strongly supports the passage of SB 116. This legislation will require the Department of the Environment, the Maryland Energy Administration, and the University of Maryland School of Business, in coordination with the Department of Legislative Services, to conduct an analysis of the likely environmental, energy, and economic impacts of data center development in the State and to submit a report to the Governor and the General Assembly by September 1, 2026.

The explosive growth of high-energy-use facilities represents a major challenge to Maryland. These facilities consume quantities of electricity so vast that they have begun to tax entire energy grids, greatly increasing the costs for all ratepayers as well as compromising states' ability to achieve its clean energy goals. There are many issues which the General Assembly needs to examine and resolve before the proliferation of data centers makes the resolution of these issues impossible.

Virginia represents a cautionary tale regarding how **not** to introduce large-scale data centers into a state. Data center development in Northern Virginia has been accelerating for years. As of late 2022, data centers accounted for 21% of Dominion Energy's electricity sales in Virginia. Disturbingly, Dominion's Integrated Resource Plan filed in 2023 uses this anticipated load growth from data centers as the rationale for leaving in place existing fossil-fuel generation (which would have been retired) and as a justification for the construction of a new 1000 MW gas-fired generating station. One effect of this growth is that Virginia now imports roughly 40% of its power needs versus 18% in 2020. The cost to Virginia of that imported power is almost 10 times higher than it was just one year ago.[2] This growth in energy usage and imports has increased Virginia ratepayers' bills by approximately $3,000 a year.

Without the prompt implementation of robust consumer protections and enhanced transparency, existing ratepayers are at extraordinary risk from these new large loads. Thus, the study will be vital to determining how best to protect Maryland ratepayers from burdensome rate increases where those increases are the result of the desires of one competitive industry.

[1] Earthjustice is a non-profit public interest environmental law organization that represents other non-profits free of charge.
[2] Virginia now imports more electricity than any other state - Cardinal News

These new large loads will require millions if not billions of dollars in investments for electric service. Unlike Virginia, which is now trying to close the barn door after the horse has escaped, Maryland has the opportunity to examine the best methods for both encouraging the data center industry and protecting Marylanders from unfairly having to bear the costs of that industry. Methods to protect ratepayers could include tariff changes to address the different needs and unique risks that these large load customers present; adopting a new rate class for high loads; and minimum bills to ensure that the fixed costs associated with serving the data center's level of load are paid for by the customer. These are just a few of the myriad of ratepayer protections which the study should examine.

Similarly, the General Assembly should find ways to protect Marylanders from the negative effects the overbuilding of these facilities may cause. It appears that a substantial portion of the power needs for large, new "hyperscaler" data centers is for so called AI, a nascent technology which is still in the development stage and which may not ultimately meet expectations, despite computer companies claims to the contrary. Each data center will use hundreds of megawatts of power or more, further concentrating risk at just a small handful of facilities. Data centers are a competitive business. Negative impacts to the tech industry, less than expected demand for AI and computational power, or the failure of specific data center facilities to gain sufficient customers could end up creating an unfair economic burden on Marylanders. Overzealous investment in data centers can lead to an overbuild that would result in bankruptcies for some data centers or simply result in the operator walking away from a specific data center because that data center has proved unprofitable.[3] Existing customers should not be required to foot the bill for stranded assets and less load.

For example, a new artificial intelligence model, DeepSeek, called into question whether the rush to build new, mostly fossil-fueled power plants to run data centers is premature. The new AI model uses less electricity. The news of more efficient AI means the plans and promises for unlimited electricity load growth from AI points to the likelihood that energy needs have been overstated. If data centers switch to a more energy efficient technology, like DeepSeek, residential and other customers could be left paying for new energy infrastructure that is not needed. More consumer protections are necessary so data center operators can't walk away from a power plant built for its use. The concerns aren't just hypothetical. In early January, Microsoft stated it was pausing construction of its $3.3 billion data center in Wisconsin to evaluate recent changes in technology.[4]

Maryland will potentially undergo a massive economic, technological, and environmental upheaval, all centered around the activities of a few high energy using facilities. The General Assembly should resolve the issues concerning who is going to pay for the increased energy costs and what are the implications for Maryland's air quality, climate goals, water resources,

[3] This is not hyperbole. The internet boom of the late 1990s put data centers on the map, with companies like Exodus Communications pioneering the concept of large-scale data centers. But as with many tech trends, the early 2000s saw a crash. Overzealous investments led to an overbuild that left many data centers underutilized for years. The difference is that in the current instance Marylanders may pay the economic price for this overbuilding.

[4] Microsoft pauses construction on portions of Mount Pleasant project - WPR

health, and the environment prior to the construction of high energy using facilities. The proposed study should assess of impacts of these facilities on Maryland's natural resources, historic and cultural resources, current and forecasted energy demand and supply, policies to transition from fossil fuels to renewable energy sources, siting considerations and the impact on local residents.

Finally, Earthjustice thanks Senator Lewis Young for her leadership on this important issue.

Earthjustice strongly urges a favorable report for SB 116.

Thank you in advance for your support. Should you have any questions, please contact me at smiller@earthjustice.org.

Respectfully submitted,

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Earthjustice