BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

LARGE LOAD TARRIFF WORKGROUP PROPOSED REGULATIONS RM 93

COMMENTS OF THE MARYLAND OFFICE OF PEOPLE'S COUNSEL

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INTRODUCTION

High utility bills continue to beleaguer Maryland ratepayers. One of the primary drivers of these extraordinary utility costs is the ever-increasing power demand of large load customers.[1] Most of these large load customers are data centers located in other states within the PJM Interconnection, LLC region, such as Virginia. Although federal regulation applies to large load customers outside of Maryland, this rulemaking presents an opportunity to protect ratepayers from rate impacts from intrastate large load customers. Maryland regulations regarding large load customers are necessary in order to improve energy affordability and shield residential customers from reliability risks. Proper state regulation of large load customers is thus a critical line of residential ratepayer protection.

To help shape regulatory protections from large load customers, on December 6, 2025, the Maryland Public Service Commission's Technical Staff filed *Staff's Progress Report on the Status of Implementing* Section 4-212 *of the Public Utilities Article Regarding Large Load Customer Regulations and Tariffs* (the "report").[2] On December 9,

[1] *See, e.g.*, *Data center power demands again drive record power auction prices*, OPC Press Release, (Dec. 17, 2025) *accessible at https://content.govdelivery.com/accounts/MDOPC/bulletins/4006939*.
[2] Md. Pub. Serv. Comm'n Technical Staff, *Staff's Progress Report on the Status of Implementing* Section 4-212 *of the Public Utilities Article Regarding Large Load Customer Regulations and Tariffs*, (PC 72 Large Load Tariff Workgroup, Dec. 6, 2026), at 2 ("Report"). The report discusses (a) current utility practices for large load customers, including contracting, load studies, services requests, and collateral requirements; (b) federal and state jurisdictional issues; (c) how ratepayer protections can be included in a Maryland-jurisdictional large load tariff; (d) an overview of how other states have addressed large load tariffs; and (e) key issues surrounding large load tariff implementation, such as applicability, distribution requirements, cost allocation, and load studies.

2025, the Commission issued a notice of proposed rulemaking and solicited comments.[3]

The proposed regulations Staff filed with the Commission address the minimum requirement for regulations in the statute but do not address many of the issues raised by integration of data centers that could cause higher bills for other Maryland customers. The regulations should be revised to best achieve the ratepayer protections called for in the statute. These comments are divided into three main parts:

> **Part I** explains where the proposed regulations require greater specificity to fully achieve the legislature's intent of ratepayer protection. Specifically, the Commission should direct the Large Load Tariff Work Group to revise the regulations regarding (A) utility infrastructure costs, including contractual service commitments; and (B) collateral guarantees.
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> In **Part II** OPC urges the Commission to advise the legislature on revising the definition of a large load customer. The current statutory definition is underinclusive.
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> **Part III** requests the Commission to direct the Large Load Tariff Workgroup to further explore a "bring your own new generation ("BYONG") approach" under the PC 72 docket. This workgroup is uniquely positioned to discuss what a BYONG requirement should include, and such a requirement is consistent with the gubernatorial "Statement of Principles" regarding data center interconnection at PJM.

[3] Md. Pub. Serv. Comm'n, Notice Initiating a Rulemaking, Opportunity to Comment and Rulemaking Session, (PC 72, Dec. 9, 2025) ML #325152.,

ARGUMENT

I. The Commission should direct the work group to revise the proposed regulations to fully achieve the legislative intent of ratepayer protection.

The purpose of the proposed regulations is to implement Section 4-212 of the Public Utilities Article of the Maryland Annotated Code ("PUA"). The statute sets out minimum requirements for regulations, which must address "load study request deadlines, payment for load studies, contract terminations and adjustments, and specify forms of collateral."[4] The General Assembly stated the statutory intent of Section 4-212 is to ensure "residential electric customers in the State [do] not bear the financial risks associated with large load customers interconnecting to the electric system serving the State."[5]

To achieve this legislative intent, the Commission should direct the work group to revise the regulations for greater specificity regarding: (A) the financial risk of infrastructure buildouts for large load customers and conditions precedent to service; (B) minimum terms of service in electric and transmission service agreements; and (C) the extent of a utility's security interest under the collateral requirement.

A. The regulations should ensure that existing customers will not pay for distribution or transmission costs caused by infrastructure buildouts for large load customers.

OPC supports Staff's recommendation that "any 'but for' distribution system investments that would not be made by the utility, absent the large load customer, should

[4] Report at 1 *citing* PUA 4-212(f).
[5] Md. Code Ann., Pub. Util. ("PUA") § 4-212(b).

be directly assigned to the large load customer."[6] Cost-causation is the lynchpin of utility ratemaking and just and reasonable rates.

Directly assigning costs to the large load customer provides the best ratepayer protection from subsidizing upgrade costs for large load customers. Indeed, the majority stakeholder position is direct assignment of costs.[7] Specifically, direct assignment of costs will ensure uniformity amongst large load customers of different utilities and provide legal backing to the inclusion of such a term in the large load tariffs and relevant service contracts.

For upgrade costs that cannot be directly assigned, the regulations should require that utilities enter into contracts with the large load customer that contain provisions that will protect existing customers. It is already common utility practice to require large load customers enter into contractual obligations, such as electric service agreements, as a threshold requirement to service.[8] Such contracts are an additional risk management tool when dealing with large load customers. OPC agrees with Staff's recommendation to require an electric service agreement at the distribution level and Exelon's recommendation to have a FERC transmission service agreement as conditions precedent to service. In order to protect existing customers, the terms of those contracts should ensure that the large load customer fully pays for all network upgrades their integration on to the grid requires.

[6] Report at 37.
[7] Report at 35–37.
[8] Report at 7.

Additionally, Section 4-212 and proposed regulation 20.96.01.06 presuppose the existence of a contract for service, without explicitly requiring such a contract as a condition to service. For avoidance of doubt, this contractual requirement should be included in the proposed regulations.

Regarding the minimum initial service term, the report discusses the disparate minimum service terms in other jurisdictions. For example: five years in Pennsylvania, fourteen years in Virginia, and eight years in Ohio.[9] A proposed ten-year minimum term of service was discussed in the workgroup, which Exelon included in its pro-forma transmission services agreement.[10]

But these disparities across jurisdictions reflect a level of arbitrariness that the regulations at issue here should avoid when defining "initial contract for service." Failing to define the initial contract term could allow a large load customer to complete an initial contract term without providing enough revenue for the utility to cover the necessary upgrade costs and then exiting the system without any additional fees, thus leaving upgrade costs for other customers to pay.

The number of years that it will take for the revenue from a particular large load customer to cover the costs of upgrades needed for integration onto the system will depend on the size of the customer, the amount of revenue it will provide to the utility through directly assigned costs or rates, and the cost of upgrades needed to serve the customer. It is difficult to set a number of years for a service contract that is guaranteed to

[9] Report at 22–25
[10] Report, Appendix A Homework Responses, *Homework #2 Responses of BGE and PHI* (Aug. 22, 2025).

allow for the utility to recover all of the costs of upgrades from the customer during that term for all projects. Instead of establishing a number of years for contract terms that is both a minimum and a maximum term for the contracts, the regulations should require that the utility enter into contracts that are long enough that the utility has a reasonable expectation of collecting sufficient revenue from the customer over the term of the contract to cover upgrade costs. If the customer leaves the system prior to the end of the term, an exit fee would apply that would be at least sufficient to cover the upgrade costs.

The Commission should direct the workgroup to reconvene to further discuss the proper regulatory language on how best to achieve this outcome.

B. Collateral is necessary to satisfy the requirements of Section 4-212 and should secure both the revenue and infrastructure buildout costs of large load customers.

The workgroup agreed that collateral is necessary to limit speculative load, minimize the potential for abandoned projects and stranded costs, and secure the financial interests of utilities. Collateral obligations de-risk a project for the utilities and other ratepayers because such a security interest assures the utilities that even in the event of customer default, they can still recoup costs.

OPC agrees with the proffered forms of collateral in proposed regulation 20.96.91.05; however, the proposed addition from the Exelon utilities and Potomac Edison strips the Commission of its authority as written. Exelon and Potomac Edison requested inclusion in the proposed regulation that "[t]he electric company has discretion

over the acceptable forms of collateral."[11] OPC understands that certain utilities may have preferences in what form of collateral they receive, but the ultimate decision and choice should be left to the Commission. This addition should therefore be revised to state that any choice of collateral requires Commission approval.

Moreover, the regulations are currently unclear about what exactly the collateral secures. Therefore, proposed regulation 20.96.91.05 should clarify that the collateral is sufficient to cover both the cost of the load requirements and any exit fee if the customer leaves the system before the revenue received by the utility from the customer covers the cost of infrastructure investment for necessary upgrades.

Ensuring the utility has sufficient collateral to secure both the customer's future rates and the full costs of necessary upgrades is an essential clarification to the regulations. If the project fails to materialize or the large load customer reduces or stops service and the utility only has collateral securing the projected rate revenue but not necessary infrastructure upgrades, the utility will not be made whole and other customers may end up paying costs caused by the large load customer.

To balance the interests of both large load customers and other ratepayers, the face value of the collateral amount could decrease or be refunded over the life of the contract as load ramp milestones and infrastructure costs are paid off through the customer's rates.

Additionally, OPC supports the use of a contribution in aid of construction ("CIAC") for costs caused by large load customers. The Commission should seek

[11] Proposed Code Md. Regs. ("COMAR") 20.96.01.07(A).

supplemental comments from the workgroup on the use of CIAC. This is the tentative approach of the Pennsylvania Public Utility Commission.[12] For the reasons stated above, OPC believes the CIAC approach provides the strongest ratepayer protection and fully effectuates the spirit of Section 4-212.

II. The statutory amount of 100 MW for the definition of "large load customer" is too high.

The Commission should consider applying rules for large load customers to new customers less than 100 MW. The statute creates a requirement for regulations and tariffs but does not alter the Commission's core statutory responsibilities for ensuring just and reasonable rates, which requires tariff revisions that apply to large load customers below 100 MW. To avoid any legal uncertainty, however, the Commission should advise the legislature to lower the 100 MW threshold for the statutory large load tariff.

The 100 MW threshold excludes many would-be large load customers that could significantly impact retail ratepayer costs. Only the largest, hyperscale data center facilities and specialized manufacturing plants require 100 MW, or more, of electricity.[13] For perspective, a monthly demand of 100 MW is roughly equivalent to the electricity needed to power 80,000 households.[14] Average to large size data centers can consume 20

[12] Report at 26 *citing* Tentative Order, *Interconnection and Tariffs for Large Load Customers*, PA Public Utility Commission, Dkt. No. M-2025-3054271, Nov. 6, 2025.
[13] *Data Center Power: Fueling the Digital Revolution*, Data Center Knowledge (March 22, 2024) *accessible at* https://www.datacenterknowledge.com/energy-power-supply/data-center-power-fueling-the-digital-revolution.
[14] Carroll, Alex *GigamOM – The era of the 100 MW data center*, Lifeline Data Centers (Feb. 16, 2012), *accessible at https://lifelinedatacenters.com/data-center/gigamom-the-era-of-the-100-mw-data-center/*.

to 100 MW of power a month.[15] Although usage needs vary across location and season, 20-99 MWs is still enough electricity to power thousands of homes and could require significant infrastructure investment.

Failing to include customers within this range in large load tariffs risks burdening residential ratepayers with a myriad of costs. A non-hyperscale data center, for example a 20 MW data center, may still require its own substation.[16] Yet this customer would not be subject to Section 4-212 requirements such as a load ramp period, minimum service term, collateral requirement, or exit fee. Therefore, if this hypothetical 20 MW customer were to abandon the project even if the utility has already begun to build the substation, there is a risk that costs would be allocated to other ratepayers. Indeed, the Department of Energy's Advanced Notice of Proposed Rulemaking ("ANOPR") proposes that any rulemaking reforms apply to loads 20 MWs or greater.[17] Additional FERC precedent further supports a 20 MW threshold.[18]

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[15] *Data Center Power: Fueling the Digital Revolution*, Data Center Knowledge (March 22, 2024) *accessible at* https://www.datacenterknowledge.com/energy-power-supply/data-center-power-fueling-the-digital-revolution.

[16] *See* Lawrence Berkeley National Laboratory*, 2024 United States Data Center Energy Usage Report* at 7 (Dec. 2024), *accessible at* https://eta-publications.lbl.gov/sites/default/files/2024-12/lbnl-2024-united-states-data-center-energy-usagereport.pdf. (noting data center demand can be used "as an opportunity to develop the leadership and a foundation for an economy-wide electricity infrastructure expansion"); *cf.* Lawson, Ashley J.; Offutt, Martin C.; Parfomak, Paul W.; Zhu, Ling*, Data Center Energy Infrastructure: Federal Permit Requirements*, Congressional, CRS Report (Dec. 12, 2025) (discussing proposed data center projects and necessary transmission infrastructure to meet load requirements)

[17] *Secretary Of Energy's Direction that the Federal Energy Regulatory Commission Initiate Rulemaking Procedures and Proposal Regarding the Interconnection Of Large Loads Pursuant to the Secretary's Authority Under Section 403 of the Department of Energy Organization Act*, US Department of Energy (October 23, 2025), P 19, *accessible at* https://www.energy.gov/sites/default/files/2025-10/403%20Large%20Loads%20Letter.pdf.

[18] *See, e.g., Standardization of Generator Interconnection Agreements & Procs.,* Order No. 2003, 104FERC ¶ 61,103, at P 1(2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220 (2004), *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, III FERC ¶

Moreover, the Virginia State Corporation Commission ("VA SCC") issued an order requiring a new tariff class for large load customers. The VA SCC's order defined "a large load customer as one with measured or contracted demand of 25 MWs or more on a continuous site and a measured or expected load factor at least 75 percent."[19] This definition captures a wider swathe of large load customers and, in doing so, better protects residential ratepayers from the financial risks associated with interconnecting a large load customer. Other jurisdictions, such as Ohio and Pennsylvania, have also approved large load customer tariffs that defined "large load customer" to include customers with a demand much less than 100 MW.[20]

Therefore, given the financial risks commercial customers between 20 MW and 100 MW nonetheless pose to other ratepayers, the Commission should direct the working group to make a recommendation on a threshold lower than 100 MW for large load tariffs to apply.

III. The Commission should direct the workgroup to address issues raised by the Statement of Principles Regarding PJM's capacity market.

On January 16, 2026, Governor Moore, along with Secretary of Energy Chris Wright and several other governors from PJM states signed a "Statement of Principles

61,401 (2005), *aff'd sub nom*. *Nat'l Ass'n of Regul. Util. Comm'rs v. FERC*, 475 F.3d 1277(D.C. Cir. 2007).

[19] Report at 24.

[20] The large load customer threshold is 25 MW and 50 MW in Ohio's data center tariff and Pennsylvania's large load tariff, respectively. Report 22–28.

Regarding PJM" ("Principles").[21] Given the "size and risks to resource adequacy data centers pose," the Principles state that data centers are a unique customer requiring a unique approach to interconnection. On the same day, the PJM Board of Managers issued a letter on the Critical Issues Fast Path-Large Load Additions stakeholder process.[22] The Principles and the PJM CIFP Letter discuss long-term procurement of capacity resources. The principles state that the cost of those procurements should be allocated to large load customers that do not bring new generation to the system or agree to be curtailable.

Indeed, Governor Moore agreed to, among other things, use his authority to encourage retail rate class structures that ensure Maryland's load serving entities allocate capacity costs to data center loads that have otherwise not procured their own new capacity or agreed to be curtailable.[23] The PJM CIFP letter asks PJM staff to consider the allocation of costs for such a procurement, including the allocation proposed in the Principles. Additionally, the PJM CIFP Letter adopts an approach that would assign curtailments caused by the addition of large load customers that do not bring new generation to serve their load to the zones where those additions have occurred.

Regulations and tariffs that apply to the addition of large load customers should address cost allocations and curtailments of large load customers at the PJM level to

[21] Romm, Tony, "Trump and States Aim to Stop A.I. From Inflating Energy Bills," *New York Times*, Jan 16, 2026, *citing* "Statement of Principles Regarding PJM" ("Principles"), *accessible at* https://www.nytimes.com/2026/01/16/business/trump-ai-electricity-costs.html.
[22] *Board Decisional Letter on Critical Issue Fast Path - Large Load Additions*, PJM Interconnection LLC (Jan. 16, 2026), *accessible at* https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2026/20260116-pjm-board-letter-re-results-of-the-cifp-process-large-load-additions.pdf. ("PJM CIFP Letter").
[23] *See* Principles.

ensure that residential customers are not adversely impacted by either. The Principles and the PJM CIFP Letter thus necessitate the continued exploration of "bring your own new generation" ("BYONG"), which was only briefly explored in a workgroup homework query. The Commission has direction from the General Assembly to ensure a large load customer integration does not result in ratepayer subsidization of large load customer costs.[24] The Commission should fully explore the use of the State's authority to regulate the requirements for entities to become retail electric customers under a BYONG approach.

Addressing the Principles now will best position Maryland and the Commission to ensure uniformity between developments at the regional level, state regulations, and state and federal tariffs for large load customers. The Commission should thus direct the workgroup to propose regulations to address the need to protect customers through BYONG.

CONCLUSION

The regulations the Commission adopts to effectuate Section 4-212 should include more than the legal minimum to best achieve the legislative intent of ratepayer protection. OPC therefore recommends the Commission direct the workgroup to revise the proposed regulations to ensure the following:

[24] PUA § 412(d)(3).

- Direct assignment of infrastructure buildout costs to the large load customer.
- Require an electric service agreement and a transmission service agreement, as applicable, as conditions precedent to service. Any minimum terms of service should ensure that the revenues from a large load customer will cover the cost of infrastructure buildouts caused by the large load customer.
- Require that any collateral requirement secure the cost of the large load infrastructure buildout it may require. The form of this collateral is ultimately at the Commission's discretion, taking into account the utility company's preference.
- Consideration of the Principles Governor Moore signed on January 16, 2026, and the PJM CIFP Letters regarding a BYONG approach for large load customers.

Finally, the Commission should direct the working group to make a recommendation for a lower threshold for large load customers than the 100 MW threshold definition in the statute.

Respectfully submitted,

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