SIERRA CLUB
LONE STAR CHAPTER

For More Information:

Evgenia Spears, Water Program Coordinator, evgenia.spears@sierraclub.org, (979) 739-1097
Cyrus Reed, Legislative and Conservation Director, cyrus.reed@sierraclub.org, (512) 740-4086

Large Electric Loads, Transparency and Community Water Protections

In recent years, new industries that have the potential to use significant amounts of energy, water and impact landscapes have emerged in Texas, from bitcoin and cryptocurrency mining to data centers, semiconductor manufacturing and AI. While a lot of attention has focused on their large electric needs and impact, there are other community concerns that need to be addressed. Recently, HARC (Houston Advanced Research Center) has put out a useful report - titled "Thirsty Data and the Lone Star State: The Impact of Data Center Growth on Texas' Water Supply," which highlights that the rapid expansion of data centers is putting significant strain on Texas' water resources, and could use up to nearly 3 percent of total water use by 2030.

The Lone Star Chapter of the Sierra Club is working with a number of entities to develop policy solutions at the state and local level to mitigate the impact of data centers on natural resource use. While we are still finalizing those recommendations, here are some broad categories of potential solutions that we believe the Legislature should consider.

Protecting Consumers / Require Data Centers to Pay Their Fair Share:

Large electric loads must be required to pay separately for 100 percent of the costs necessary to service them, including water use and treatment and wastewater treatment, water distribution, and financing costs.

Currently, public water utilities and water supply corporations have the ability to establish separate customer rate classes. Before a new class can be implemented, PUC must approve studies of the utility's rate structure and cost of service…a process that protects customers

from unfair rates but incurs a cost (both financial and administrative) for the utility which may be less feasible in under-resourced communities or circumstances where growth threatens to outpace local capital planning. We recommend the legislature direct the PUC to conduct a statewide study for the development of regionally specific guidance on rates for data centers and other large industrial water users.

Alternatively, the Legislature could also consider passing a requirement that all water utilities develop a specific large load tariff schedule, which is the official pricing structure set by utility companies, including rates based on water consumption and other charges (such as service fees). Large-load customers must be subject to a tariff schedule that is equal or proportional to the costs of serving them, mitigating the risk that other classes of retail consumers are paying unwarranted costs. This may include instituting a new tariff schedule or amending an existing tariff schedule.

Utilities can also set rate surcharges for capital improvements such as the capacity expansions and other work often needed to serve large new industrial customers, but those costs are distributed among all ratepayers. We recommend updating statute to ensure current ratepayers are not asked to foot the bill when data centers and other large new facilities come to town.

Transparent Reporting / Effective Planning Requires Transparency:

To accurately understand the impact of any water user and ensure our state's long-term supply remains secure, we need detailed information about how much water is being used. The lack of transparency and use of non-disclosure agreements in data center development prevents a clear understanding of their water consumption and hampers water supply planning at the state and local levels. Effective water supply planning guides strategic investment and supports smart growth in Texas. This all relies on good and accurate data. We recommend requiring data centers to report annually to the PUC on cooling systems used, total water consumption (peak water use and total water use), and water sources, including the amount diverted, to enable a fair assessment of their water use and impacts on local water resources. This could be combined with electric use and generation information as well. The PUC should share this data with TWDB to be used in the regional and state water planning process, as well as with TCEQ for their regulatory functions.

State Public Website: Require PUCT to design, implement, and maintain a publicly accessible website to provide information about all data center and other large electric facilities in the state, including water and energy use.

NDA (Non-Disclosure Agreements) are secrecy contracts signed between a data center developer and local governments that prohibit the government from sharing information about

the data center development deal with the broader public. While there could be some legitimate trade secrets that might make sense to protect, the Legislature should establish guidelines that prohibit NDAs around information that should be available to the public, including:

- Water use, cooling technology and water sources
- Energy Use and Sources
- Wastewater discharge
- Use of backup generators

Water Efficiency Requirements / Ensure Data Centers (& other Industrial Water Users) Are Good Stewards of Limited Water Resources:

The Legislature must protect our water resources, particularly potable water resources, including non-saline groundwater. Data Centers and other large electric loads should be encouraged to use reclaimed water, including treated wastewater, treated and desalinated produced water, or treated highly saline groundwater.

Require TCEQ to leverage & enforce CWA pretreatment regs for industrial users, as part of a new industry-specific permit for data centers regardless of size

The water discharged after use in cooling systems and other industrial processes must be carefully managed to prevent harmful environmental impacts and reduce the need for costly public infrastructure expansion. We recommend that wherever possible, data centers (semi-conductors/chip fabs) be required to limit wastewater discharge through on-site recycling and reuse, landscape irrigation, and other efficient water use strategies.

Data center designers consider several variables when selecting a facility's cooling technology and may find themselves choosing between options with varying levels of efficiency in their use of water. We recommend establishing statewide design standards requiring the default selection of the most efficient feasible technology and other processes that typically utilize or consume water, including the utilization of dry cooling technologies where possible.

Counties need additional authority to manage impervious cover, stormwater and drainage management, landscaping standards, and other land use issues for flood management purposes. This authority would be useful in managing the development of large industrial facilities and limiting their impact on flood severity. We recommend counties be given the authority to collect drainage fees and manage impervious cover to mitigate the impacts of large industrial developments on flood severity, and also have more authority over building code standards and enforcement.

Direct SECO to adopt a statewide building code for large industrial loads that would be a state minimum and require large loads to meet certain building code standards, including water and energy efficiency. The Code should be based on codes developed by the International Code Council.

Community Benefits

To offset resource consumption and balance the impacts of development with long-term benefits, data center developers should be encouraged to contribute to programs that reduce energy and water use, including weatherization, energy efficiency, and water conservation programs.

We recommend exploring either:

- Requiring the developers of large electric loads industrial facilities to contribute to programs overseed by a state agency such as SECO, TDHCA, the TWDB or the PUCT in amounts commensurate with the amount of water and energy they consume (based on data submitted annually to the PUC) so that their impact can be reduced with reductions in residential and small commercial use.
- Requiring developers to implement Community Benefit Agreements with local or regional entities where they are located to do the same.