



SIERRA CLUB

LONE STAR CHAPTER

To: The Honorable Ken King, Chair, Chair, House Committee on State Affairs
The Honorable Ana Hernandez, Vice-Chair, House Committee on State Affairs
Members, Committee on State Affairs

From: Cyrus Reed, Legislative and Conservation Director, Lone Star Chapter, Sierra Club

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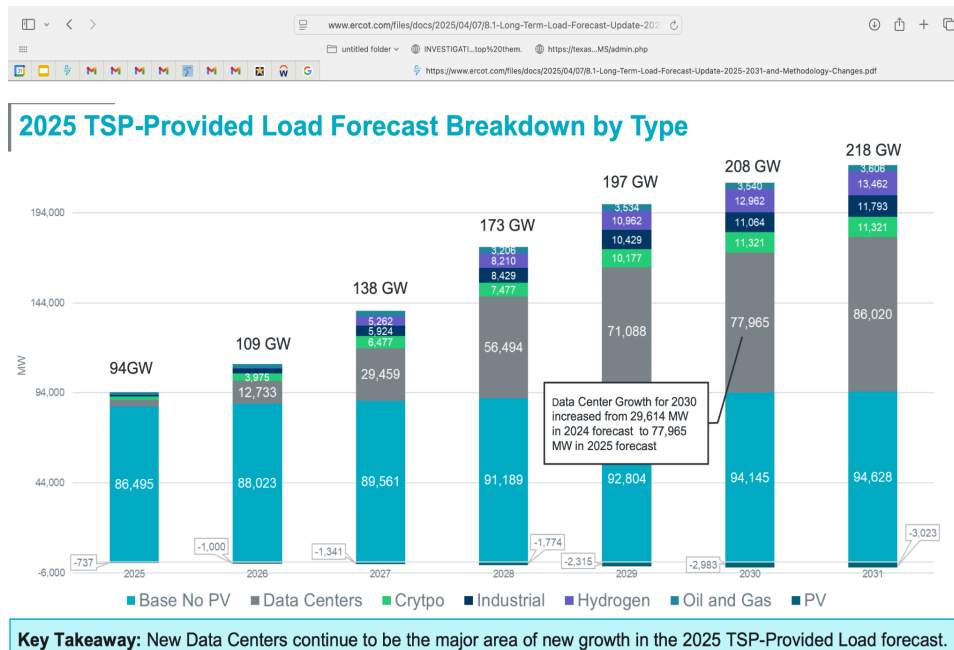
Re: Data Centers, AI and Future Rules on Large Load Development

The Sierra Club is pleased to offer initial comments to the House Committee on State Affairs on data centers, AI and other large loads. Sierra Club has more than 22,000 members in Texas, most of them within ERCOT. We have many members who are very concerned about the water, energy and air quality impacts of data centers and other large electric loads. As an organization, we are members of ERCOT, and serve on the Reliability and Operations Committee, which is currently reviewing proposed protocols and guidelines around the ERCOT “batch” process and other rules to create “Controllable Load Resources” and “Bring Your Own Generation” standards.

SB 6 Implementation

Sierra Club supported SB 6, including its major provisions to require interconnection studies and standards, separate permission for large loads that are co-located with existing generation, a demand management tool, new requirements on ERCOT forecasting, and especially a reconsideration and reevaluation of how transmission costs are borne by ratepayers. We believe the current system of 4 CP socialized transmission costs is unfair to residential and small business consumers. At the same time, we argued that the definition of large loads should have included more large loads by requiring all transmission-level customers of 25 MWs or higher to be considered large loads (as opposed to 75 MWs or higher). Still, we recognize the PUCT does have the authority to set the threshold at a lower level should they choose, although thus far they have chosen to stick with 75 MWs and above.

Forecasts of Large Loads warning to interconnect continue to be extremely high. While the 2025 RTP predicted up to 220 GWs of loads within six years, even more recent projections continue to show even higher loads wishing to interconnect, showing the importance of SB 6 as an initial protective measure. Again, the Sierra Club believes that while SB 6 was necessary, even more must be done to protect the grid, alleviate consumer costs and mitigate water and energy use, and air quality.



Transmission Interconnections and ERCOT Batch Process

Sierra Club is watching the ERCOT batch process and proposals and is engaged through the stakeholder process. We understand the need for a more regional and statewide approach but do want to assure that the medicine proposed is focused on the right target, and that other users are not prevented from being served by the grid. While the Sierra Club understands the need to build the large transmission infrastructure, we are concerned at both the cost, but also the siting decisions which could impact important habitat, and natural resources. We hope the legislature will also look at other transmission solutions like Enhanced Grid Technologies and Reconductoring.

SB 6 Rulemakings at the PUCT

The Sierra Club has been engaged in all five rulemakings at the PUCT and we are generally pleased with the efforts of the agency, though we continue to argue for a lower threshold of who the rules apply to. We believe that the PUCT should make a decision on transmission cost allocation by the end of the year. The Sierra Club favors an approach which would base transmission costs on a combination of overall energy use and peak demand over all 12 months, which we believe would be a fairer way to allocate costs to all users rather than the 4CP approach, and should lower the potential that ratepayers are paying the cost of transmission mainly used by large industrial loads like data centers.

[Project No. 58479](#): Establishing rules for new large loads that will be located with an existing generation resource

[Project No. 58480](#): Establishing rules for forecasting the future demand of large loads

[Project No. 58481](#): Establishing standard rules for connecting large load customers to the ERCOT grid

[Project No. 58482](#): Developing a paid service for procuring power use reductions from large loads to help balance supply and demand on the grid.

[Project No. 58484](#): Evaluating whether the existing methods used to assign the cost of transmission projects to Texas consumers are fair

Project No. 58317. Updates regarding the overall implementation of SB 6.

Additional Community Protections from Large Loads

Cost should be borne by developers and operators, not other ratepayers

Large electric loads must be required to pay separately for 100 percent of the costs necessary to service them, including transmission and energy use, distribution and financing costs. While not the subject of this committee, we have similar beliefs for water use and treatment and wastewater treatment, water distribution, and financing costs.

The Legislature could also consider passing a requirement that all private electric utilities, cooperative and municipal utilities develop a specific large load tariff schedule, which is the official pricing structure set by utility companies, including rates based on energy consumption, demand charges 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

Annual Reporting. To accurately understand the impact of any energy and water user and ensure our state's long-term water and energy supply remains secure, we need detailed information about how much water and energy is being used. The lack of transparency and use of non-disclosure agreements in data center development prevents a clear understanding of their energy and water consumption and hampers water and energy supply planning at the state and local levels. Effective 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 energy use, peak and overall, energy sources used, 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 energy and water use and impacts on local water and energy resources. The PUC should share this data with ERCOT and TWDB to be used in the regional and state water planning process, as well as with TCEQ for their regulatory functions. Reporting could also include information on any backup power technology utilized. We strongly suggest that these requirements be placed on any transmission-level large load customer of 25 MWs or greater.

State Public Website: Require PUCT to design, implement, and maintain a publicly accessible website to provide information about all data centers 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 and Energy Efficiency Requirements / Ensure Data Centers (& other Industrial Water Users) Are Good Stewards

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

In addition, the Legislature could 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.

County Authority

The legislature has a difficult balancing act to grant counties the authority to manage land use outside city limits. While we do not favor giving counties the ability to ban or place moratorium on development, we do believe that counties need more tools to protect their citizens from growth and development that does not reflect the unique circumstances of their counties. We believe there is a "sweet" spot of reasonable county regulations. 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, aquifer recharge, and other important issues. 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 setting building code standards and enforcement of those codes.

Community Benefits Requirement: Let's help Texans conserve their resources and mitigate large load impacts

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, or even land conservation efforts.

We recommend exploring either:

- Requiring the developers of large electric loads industrial facilities to contribute to programs overseen 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.

Air Quality Concerns

We recognize that the House Committee on State Affairs does not generally deal with air quality issues, but they are paramount to address as the grid incorporates more and more data centers and other large loads that rely on backup and onsite generation, often fueled by gas and diesel engines.

Many large data centers are proposing to add significant generation resources, many of which have significant air quality impacts. Often these onsite generation resources are located in communities that are already suffering from poor air quality measures, impacting local air quality, health and wildlife. These emissions can also contribute to the conditions leading to extreme weather.

Cloud compute and artificial intelligence data centers are almost always built with substantial on-site backup diesel generation to ensure continuity of operations even during power outages. In many cases, the number of these (typically uncontrolled) 2-4 megawatt on-site generators are sized to match the capacity of the data center, and it is increasingly common to have large data centers with dozens or even hundreds of backup diesel generators. Each of these generators produce the equivalent emissions of several diesel trucks. The Sierra Club recommends that the Texas Legislature consider several policy options to seek to mitigate the air quality impacts of diesel generators at data centers. These include:

- Mandate that air permits assess cumulative emissions & simultaneous operations
- Mandate transparency, public comment, and reporting for minor sources
- Prevent expansion of “emergency” conditions that allow for operation of diesel units
- Require back-up generation require Tier IV controlled generators and/or battery storage

The Sierra Club appreciates the opportunity to offer these comments to the committee.