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Exhibit AG-1

(Calculation of Residual Termination Payment)

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Measuring the Data Center Boom: Facts and Statistics (2026)

LAST UPDATED: MAY 11, 2026

Rapid adoption of AI among enterprises and consumers is fueling the growth of data centers, the massive structures that provide the necessary computing power.

The data center boom impacts nearly everyone, from the tech and real estate sectors to policymakers and the environmentally conscious, who respectively view these data centers as a geopolitical asset and a drain on natural resources.

This report covers the most critical statistics and trends regarding data centers in 2026.

Editor's Picks

- There are currently 11,426 data centers globally located in 179 countries.
- Demand for data centers is predicted to nearly **triple** by 2030.
- Between now and 2030, companies worldwide are expected to invest nearly **\$7 trillion** in building and upgrading data centers.
- Global data center power usage is expected to increase to **219 GW** over the next five years, enough to power roughly 180 million US homes.
- On average, data centers cover **100,000 square feet**, but hyperscale data centers are as large as **10 million square feet**.
- Data centers are present in **more than 170 countries**, and nearly 40% are located in the US.

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- Large data centers use **up to 5 million gallons of water** per day for cooling purposes.
- US states with multiple data centers create **more than \$30 billion** in additional economic output annually.

Current State & Future Growth of Data Centers

The scale, capacity, and market value of data centers are growing exponentially.

Much of this is due to the increasing demand for AI among enterprises and consumers. But countless other business operations, like processing data from IoT devices, depend on data centers too.

Increasing consumer demand is just as powerful. Streaming services, ecommerce apps, and social media are creating massive workloads to be processed in data centers.

There are over 11,000 live data centers around the world ([Data Center Map](#))

As of May 2026, there are 11,426 active data centers around the globe.

Programs.com May 11, 2026 Article on Proliferation of Data Centers

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Not all of these data centers are used for AI, but many are.

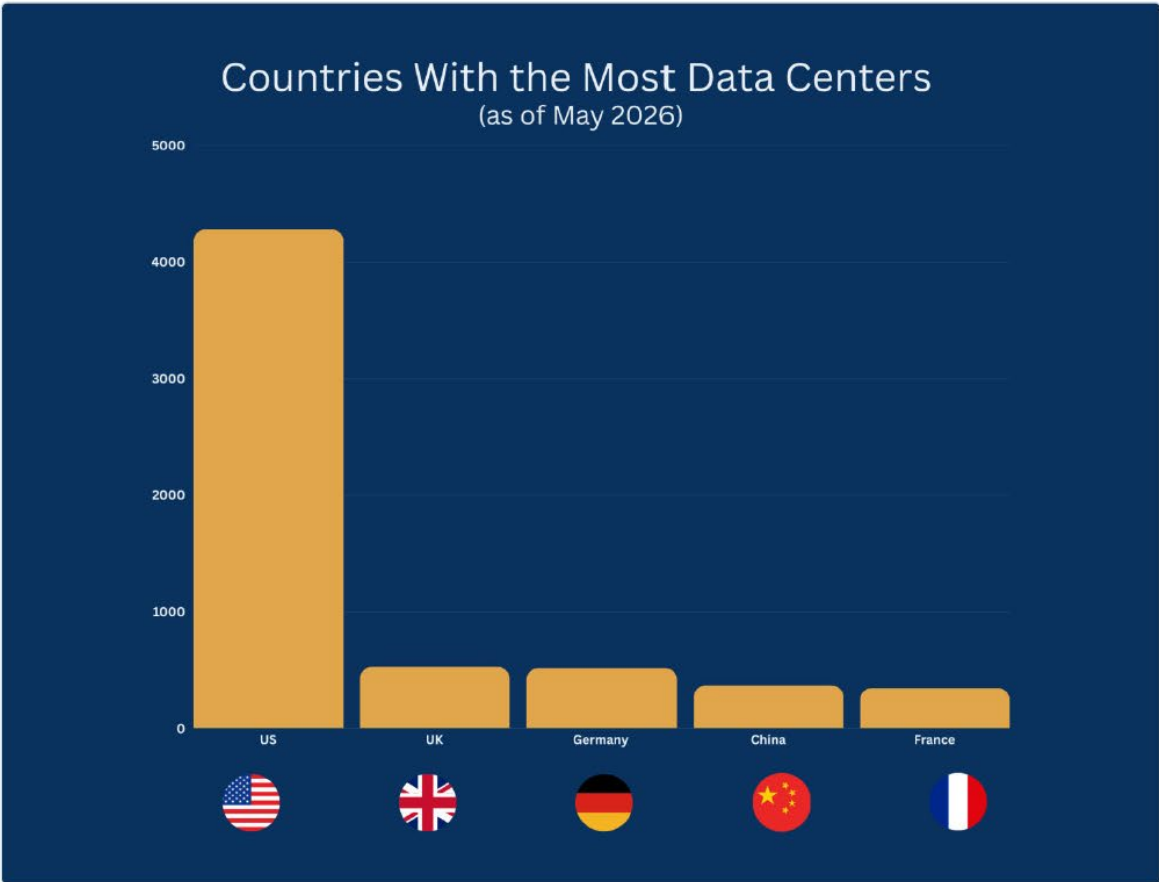
The US has almost 8x more data centers than any other country
(Data Center Map)

With 4,280 data centers as of May 2026, the US has by far the most globally. The UK ranks #2 with 527, followed by Germany with 517, China with 369, and France with 346.

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Demand for data centers is predicted to nearly triple by 2030
(McKinsey)



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This year, non-AI workloads are predicted to total 38 GW, while AI workloads are expected to hit 44 GW.

By the end of next year, estimates show 18 additional GW will be added. Growth between 2027 and 2029 is expected to reach about 20 GW each year.

However, mega growth is projected between 2029 and 2030, with 31 GW of data center capacity expected to be added.

This estimate shows a total of 219 GW in data center capacity by 2030.

The data center sector is set to grow by 14% CAGR through to 2030 (JLL)

AI and cloud computing are expected to fuel a 14% CAGR in the data center industry through 2030. The sector is forecast to add around 97 GW of capacity between 2025 and 2030, nearly doubling its size within five years.

By the end of the decade, global data center capacity could hit approximately 200 GW, driven primarily by continued hyperscale cloud expansion and accelerating demand for AI infrastructure.

Over the next five years, nearly \$7 trillion will be spent on building and upgrading data centers (McKinsey)

This investment is expected to be spread across three main groups. About 15% will go to land and building requirements, about 25% will be spent on power generation and cooling, and about 60% will be invested in the tech and hardware required to run the data centers.

Demand for AI-specific data center usage is predicted to be responsible for more than \$5 trillion of this investment.

This estimate is based on the current momentum of the data center market. If momentum significantly accelerates, total data center investments could reach

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nearly \$8 trillion over the next five years. Alternatively, if demand drops, spending could level off at about \$3.7 trillion.

US companies are expected to account for more than 40% of data center spending over the next five years (McKinsey)

US spending on data centers was predicted to top \$425B in 2025. The vast majority of data center spending, about 70%, is expected to come from hyperscalers.

Leading hyperscalers, including Amazon, Microsoft, Google, Meta, and others, are already building in the US and have plans to invest even more in the coming years.

The capital spending of each hyperscaler is already trending toward \$100B annually.

Although other countries are seeing an uptick in data center investment, most face restrictive regulations, higher energy costs, and fewer financial incentives than the US.

Total spending of US companies on data center construction was estimated to surpass \$52B in 2025 (ConstructConnect)

YTD spending through October showed that data center construction spending has more than doubled YoY and more than tripled since 2023.

In January 2026 alone, US companies spent over \$25B across 20 data center construction sites (ConstructConnect)

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US companies spent
over \$25B across 20 data
center construction sites
in January 2026

That's compared to just \$2.9B in 2024.

The rapid growth in data center construction demand has pushed costs per square foot sharply upward over the past five years.

Mid-point construction costs increased from \$183 per square foot in 2020 to \$415 per square foot in 2025, representing a compound annual growth rate of nearly 18%.

If this pace continues, the mid-point estimate is projected to rise to approximately \$488 per square foot in 2026.

AI will be responsible for 50% to 70% of total data center computing by 2030 (Bain & Company, McKinsey)

Last year, AI training workloads used 5 GW of data center capacity, and AI inference (the process of generating outputs) used 2 GW.

By 2030, those numbers are expected to grow exponentially. AI training could require 23 GW, and AI inference could require 54 GW.

Several factors could lead to variations in these predictions, though. If businesses can unlock valuable AI solutions, demand could grow even more than current predictions.

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On the other hand, increased efficiency in AI solutions could decrease the required capacity.

In North America, total data center capacity hit a record 8,155 MW in the first half of 2025 (CBRE)

North American data center capacity has increased more than 43% YoY.

In addition, nearly 75% of under-construction capacity is already leased.

Capacity increases would be even greater if not for two factors: land availability and power access. Since power grids are already stretched thin in existing locations, look for the bulk of future capacity gains to happen in new markets. And, look for new capacity to come from large sites. Owners and developers are prioritizing sites between 200 MW and 750 MW.

Prime Locations for Data Centers

There are over 4,000 data centers in the US and more than 2,000 across Europe.

Every US state has at least one data center, with Vermont having the least (3) and Virginia having the most (601).

There are around 500 data centers in Northern Virginia (Data Center Map)

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There are **around 500**
data centers in
Northern Virginia

This area, often referred to as NoVA, covers 13 counties and about 4,400 square miles.

As of May 2026, Ashburn, Virginia, alone is home to 133 data centers.

Why Virginia?

One reason is the location's interconnectivity. There's a superior fiber network that enables low latency, and many critical submarine cables land on the coast of Virginia. It's also close to several major cities, like New York and Washington, D.C.

Currently, Virginia's data center computing capacity could increase by approximately 1,000% if all planned projects go ahead.

Aside from northern Virginia, the top data center markets are Atlanta, Dallas–Fort Worth, and Chicago (CBRE)

Atlanta is one of the largest data center markets in the US. The city has a total inventory of 1,280 MW with an additional 1,892 MW under construction. Overall, Atlanta accounts for 16% of data center inventory in the US.

In the Dallas–Fort Worth area, there's a total capacity of 870 MW with 425 MW under construction. That accounts for about 11% of the total US data center market.

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Chicago has a total capacity of 692 MW, which accounts for 9% of the US market. There's an additional 244 MW under construction.

Approved, upcoming data centers in Las Vegas and Reno will grow the area's capacity by 950% (Stanford)

Upcoming projects in Nevada will add 3,800 MW to local data center capacity.

Google has announced a \$400 million expansion to an existing data center, Microsoft recently acquired 300 acres of land, and Vantage Data Centers has a \$3 billion project in the works.

That's in addition to the 495 MW Switch data center that's planned to run on 100% renewable energy.

About 15% of Europe's data centers are in Germany (Tech Policy Press)



Around **15%** of Europe's data centers are in Germany

Germany has the highest concentration of data centers outside the US. Nearly one-quarter of these data centers are located in Frankfurt.

The Frankfurt data center boom is so expansive that all existing energy capacity has already been claimed for years to come.

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The main draw for data centers in Frankfurt is DE-CIX, the world's largest internet exchange operator.

The largest data center in the world is in Hohhot, China (GBC Engineers)

China Telecom's Inner Mongolia Information Park encompasses 10.7 million square feet. Despite its gigantic size, the data center's capacity is just 150 MW. That's because much of the campus is devoted to warehouses, offices, and even residential space.

The most powerful data center in the world is planned for Utah (KSL Utah)

Creekstone Energy is in the planning and permitting stages of building a 20-million-square-foot data center site called Delta Gigasite. Within the decade, the company says the data center will ramp up to 10 GW of capacity.

The Footprint of Data Centers

While a few data center campuses exceed 10 million square feet, the typical data center covers about 100,000 square feet. However, recent data shows that the average is trending upward as newer facilities come online.

Typically, hyperscale data centers house more than 5,000 servers (IBM)

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Hyperscale data centers
typically house
over 5,000 servers

Because of the sheer amount of IT equipment, these data centers are typically larger than 200,000 square feet, and several are well over 1M square feet.

Large sites offer several advantages to companies with a wealth of capital, like Meta, Microsoft, and AWS. All of the hardware and cooling infrastructure at one site is highly standardized. In addition, the infrastructure needed for connection to the power grid is massive, but it only needs to be set up once.

There are more than 1,000 hyperscale data centers worldwide (Synergy Research Group)

Between 2019 and 2024, the number of hyperscale data centers doubled. More than 135 came online in 2024 alone.

It's only taken four years for the total capacity of these data centers to double, and estimates show that capacity could double again in less than four years.

54% of hyperscale data centers are based in the US. Other major locations include China (16%) and Europe (15%).

Amazon ranks as the leading hyperscaler in the world (Data Center Magazine)

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Amazon operates 260 known data center locations across 22 countries. An additional 157 sites are under construction.

Like many other hyperscalers, the precise number and location of all of Amazon's data centers are unknown. However, a recent Bloomberg report suggests that Amazon may be operating more than 900 data center locations.

No matter the precise number of sites, Amazon's capital expenditures on data centers are massive. In 2025, it topped \$100 billion.

Microsoft is building a 1.2 million square foot "AI factory" in Wisconsin (Microsoft)

Microsoft is investing about \$3 billion to build this data center that covers 315 acres. It's expected to open in 2026.

In November, the company opened a very similar site, covering about 1 million square feet across 85 acres, outside of Atlanta.

In total, Microsoft operates 143 known data centers, and another 154 are under construction.

The first data center built by Google now covers 1.3 million square feet (IBM)



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In 2006, Google opened its first data center site in The Dalles, Oregon.

Since then, the company has invested more than \$1.8 billion to expand this single site. It now covers more than 1.3 million square feet.

Google recently announced a \$600 million plan to expand the site even more. A fifth building, about 290,000 square feet, is expected to be added.

It takes less than 18 months for a hyperscale data center to come online (Tech Republic)

Construction of the first of OpenAI's Stargate data center projects launched in June 2024.

The first two buildings, covering 980,000 square feet with 200 MW of capacity, went online in September.

Construction on six additional buildings began in March and is estimated to be wrapped up by mid-2026. Those buildings are projected to bring the site to a total of 4 million square feet and 1.2 GW of power.

The average size of a data center in the northeast US is 143,000 square feet (Regional Plan Association)

New York leads the Northeast with 149 data centers. There are ten in Lower Manhattan alone, and 35 are located within 10 miles of the New York City financial district.

One of the largest and most critical is the 60 Hudson Street data center, which is one of the most important hubs of data interconnectivity in the world. It hosts multiple data center operators across its 24 stories.

Another large data center is the SDC Manhattan data center. It covers 222,000 square feet and provides 18 MW of capacity.

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Iowa data centers now occupy more than 15 million square feet across 6,600 acres (Business Record)

There are more than 25 data centers in Iowa. Operators have invested nearly \$15 billion in the market since the mid-2000s.

There are several hyperscale data centers in the state. For example, Apple is currently expanding its 360 million-square-foot site in Waukee, Iowa, to encompass 1.9 million square feet.

Four additional hyperscalers are expected to come online soon.

The Economic Impact of Data Centers

Data centers drive tremendous revenue for enterprises, but they're also impacting economics and opportunities in local communities.

It is estimated that Meta's capital expenditures for 2025, most of which are spent on data centers, totaled more than \$70 billion (New York Times)

Meta's capital expenditures totalled \$28 billion in 2023 and \$39 billion last year. In 2026, analysts predict company spending could reach as high as \$100 billion in capital expenditures.

Prometheus, Meta's first gigawatt data center, is currently under construction in New Albany, Ohio. The data center is predicted to come online next year. An on-site natural gas power generation project totalling 200 MW is predicted to be operational by November 2026.

Hyperion, a 5 GW data center from Meta, is set to come online by 2028. Meta officials say the site in Louisiana will be almost as large as the footprint of Manhattan. There will be three natural gas power plants on site, costing a total of \$3 billion.

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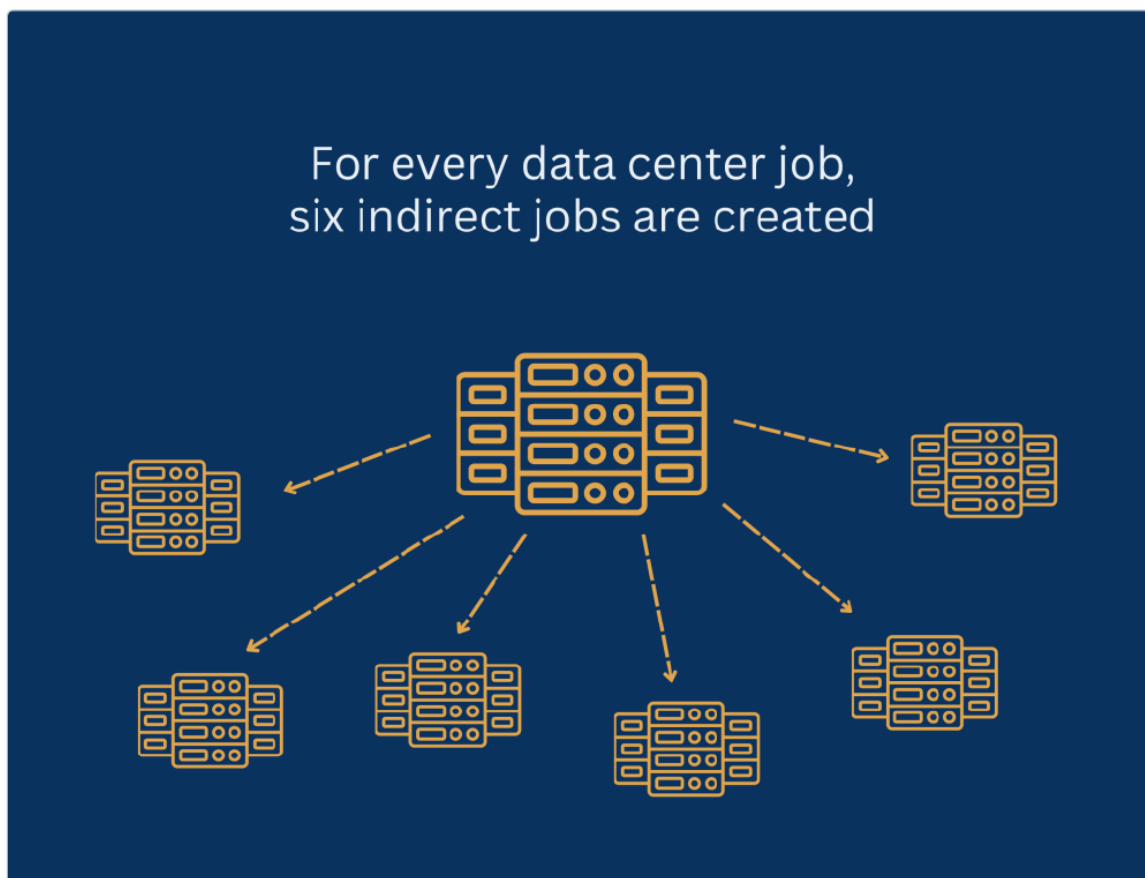
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Vantage is investing \$25 billion in a data center campus in Shackelford County, Texas (Construction Digital)

The site will consist of 10 data centers covering 1,200 acres. In total, it will provide 1.4 GW of compute capacity once it's fully finished.

Vantage says the site will create 5,000 jobs across construction and long-term operation.

For every data center job, six indirect jobs are created (PwC)



In Virginia, the data center market creates about 74,000 jobs annually, worth a total of \$5.5 billion in labor income for the state.

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However, data centers themselves actually create very few jobs compared to the amount of land they occupy. It takes about 1,500 people to build a data center; once it's operational, the site employs fewer than 200 people.

In Ohio, data centers could support more than 132,000 jobs by 2030 (Ohio Chamber of Commerce Research Foundation)

Last year, data centers in the state provided nearly \$7 billion in labor income across about 95,000 jobs.

About 36,000 of these jobs were directly attributable to data center construction and operation. About 30,000 jobs were in supplier industries, and about 28,000 of the jobs were supported by household spending of people in the direct jobs and supplier jobs.

A 330 MW data center provides about \$29 million in annual property tax revenue (Imperial Valley Press)

That estimate comes from a data center project in Imperial County, California, a rural area outside of San Diego. In addition to property tax revenue, the data center is predicted to create \$72.5 million in sales tax revenue from purchasing IT equipment.

That's a sizable increase in revenue for a county with just over 180,000 residents.

37 states have specific laws that grant sales tax exemptions for data centers (CNBC)

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A CNBC analysis found that 21 states don't publicly report the total value of their tax breaks. However, the remaining 16 states that do report totals showed that nearly \$6 billion in sales tax exemptions have been given to data centers over the past five years.

For instance, a Microsoft data center built in Illinois resulted in more than \$38 million in sales tax exemptions. The site created 20 permanent jobs.

In Virginia, data centers received more than \$730 million in tax exemptions for the fiscal year 2024 (CNBC)

Every dollar the state did not collect in sales tax resulted in 48 cents in new state revenue.

Financial audits show that Virginia, as well as Texas and Illinois, has recorded a more than 1,000% increase in tax revenue loss in recent years.

The Environmental Impact of Data Centers

Data centers require an immense amount of power to run thousands of servers. They also require millions of gallons of water to cool all of those servers.

Environmental activists, as well as local community members, worry that data centers will drain already low water supplies, increase fossil fuel pollution, and drive

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up electricity costs. However, new cooling techniques and increased renewable energy options could negate these effects.

The average data center uses ~4 MW of continuous power (IEA)

Global data centres consumed approximately 415 TWh of electricity in 2024, equivalent to an average continuous power demand of ~47 GW, according to the International Energy Agency.

This equates to an estimated average of ~35 GWh of electricity per data centre annually, or ~4 MW of continuous power per site.

However, this global average masks a large variation in facility size and energy use.

Smaller data centres typically operate in the 1–5 MW range, while hyperscale facilities frequently require tens of megawatts, with many new developments targeting 50–100 MW or more.

The amount of electricity used by data centers is predicted to grow 16% each year through 2028 (Boston Consulting Group)

By 2028, data centers could demand up to 130 GW of power.

The increase in power needs from data centers will drive 60% of the overall electrical load increase in the US through 2030. That's more than the load increase from any other sector, including electric cars.

To put that in perspective, that's the amount of power generated by over 13,000 offshore wind turbines, 245 million solar panels, or 65 Hoover Dams.

By 2028, data centers could consume up to 12% of total electricity in the United States (Department of Energy)

In 2023, data centers consumed 4.4% of total US electricity, but that number could triple over the next three years. That's equivalent to adding enough electricity to

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power the entire country of France.

The density of power use in data centers is expected to reach 176 kW per square foot in 2027 (Goldman Sachs)

This increased power density is due to the computing power needed to process AI workloads. For example, an AI server rack in 2027 is expected to require 50x more power than the server racks powering the internet today.

The chips that power AI workloads are also packed incredibly close together. The same amount of electricity used to power 1,000 American homes powers the AI chips that fit into a space that's about the size of a filing cabinet.

The power needs of data centers could raise residential electricity bills by 25% in some parts of the US (Carnegie Mellon University)

In December 2024, the largest grid operator in the US, PJM, announced that capacity market prices, which ensure grid availability, would increase from \$30 to \$270 per megawatt-day. PJM's capacity market rates continue to climb today, now sitting at \$330 per megawatt-day.

Monthly electricity costs in areas surrounding data centers are up by as much as 267% over the past five years (Bloomberg)

Increased prices have already trickled down to homeowners. With the highest concentration of data centers, Virginia is predicted to see the highest increases in the coming years. Today's average monthly electricity bill in the state is about \$143, but could surge to \$315 by 2039.

Data centers consume up to 5 million gallons of water per day (Environmental and Energy Study Institute)



Data centers consume up to **5 million gallons** of water per day

In order for the equipment to function properly, data centers must maintain a temperature between 64 and 80 degrees F. Operators use water-based cooling methods to disperse heat.

In one cooling method, about 80% of the water evaporates. The remaining water cannot be reused and must be pumped out to a water treatment plant.

One Microsoft data center in Arizona uses 56 million gallons annually, equivalent to 670 households (APM Research Lab)

The water needs of data centers are particularly concerning to citizens in water-stressed areas. Research shows that by 2027, data centers will be using up to 1.74 trillion gallons annually. That's about half of the annual water usage of the UK.

Nearly 65% of senior enterprise leaders are concerned that the environmental requirements of AI will have a negative impact on their sustainability goals (Ernst & Young)

Data center usage is reported under Scope 3 emissions. Enterprises that are adopting widespread use of AI could potentially see a large increase in emissions and negative progress in terms of other sustainability goals.

Potential factors include ecosystem disruption from data center construction, increasing carbon emissions from fossil fuel power generation, and increasing water

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consumption.

What's next for data centers?

Data center revenue is predicted to grow to \$624 billion by 2029, but that estimate could vary drastically depending on changes in data center locations, power generation opportunities, and financial investments.

Location

As companies look to build additional sites to drive revenue gains, location will be one of the most important factors.

Prime states like Virginia already have a saturated market that has created several challenges in terms of power generation and growing resistance among citizens. On the other hand, rural areas across the US provide reliable grid connections and large areas of cheap land. These areas are often eager to welcome the tax revenue provided by large data center projects.

Look for the next generation of data centers to be built in places like rural Virginia, Washington, Michigan, and Iowa.

Power

The next generation of data centers will also need alternative solutions for power generation.

Right now, it takes about eight years to build enough infrastructure to power new data centers without adding strain to the grid. That's why more than 70% of data center and power generation leaders say that powering data centers is either very or extremely challenging. Several data center projects have already been scaled back or delayed due to insufficient energy supply.

"Behind-the-meter" (BTM) power, an onsite power plant that operates specifically for the data center, is the most popular solution right now. Up to 25 GW of BTM is

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expected to be deployed over the next five years. Most BTM projects today are natural gas, but fuel cells and small modular reactors could gain traction in the coming years.

Economics

Both enterprise interest and private investment in data centers reached record highs last year. Adding to that demand, one in five Americans now uses AI regularly.

This demand is leading to unprecedented spending. Hyperscalers are predicted to spend \$525 billion on capital expenditures by 2032.

Power grid updates and associated utility investments are predicted to cost \$720 billion through 2030.

However, citizens and local governments are a critical part of the economic picture. Data center construction will likely continue to fuel thousands of local construction jobs, and forthcoming regulations could help bear the brunt of increased electricity rates among consumers.



Degrees

Certs

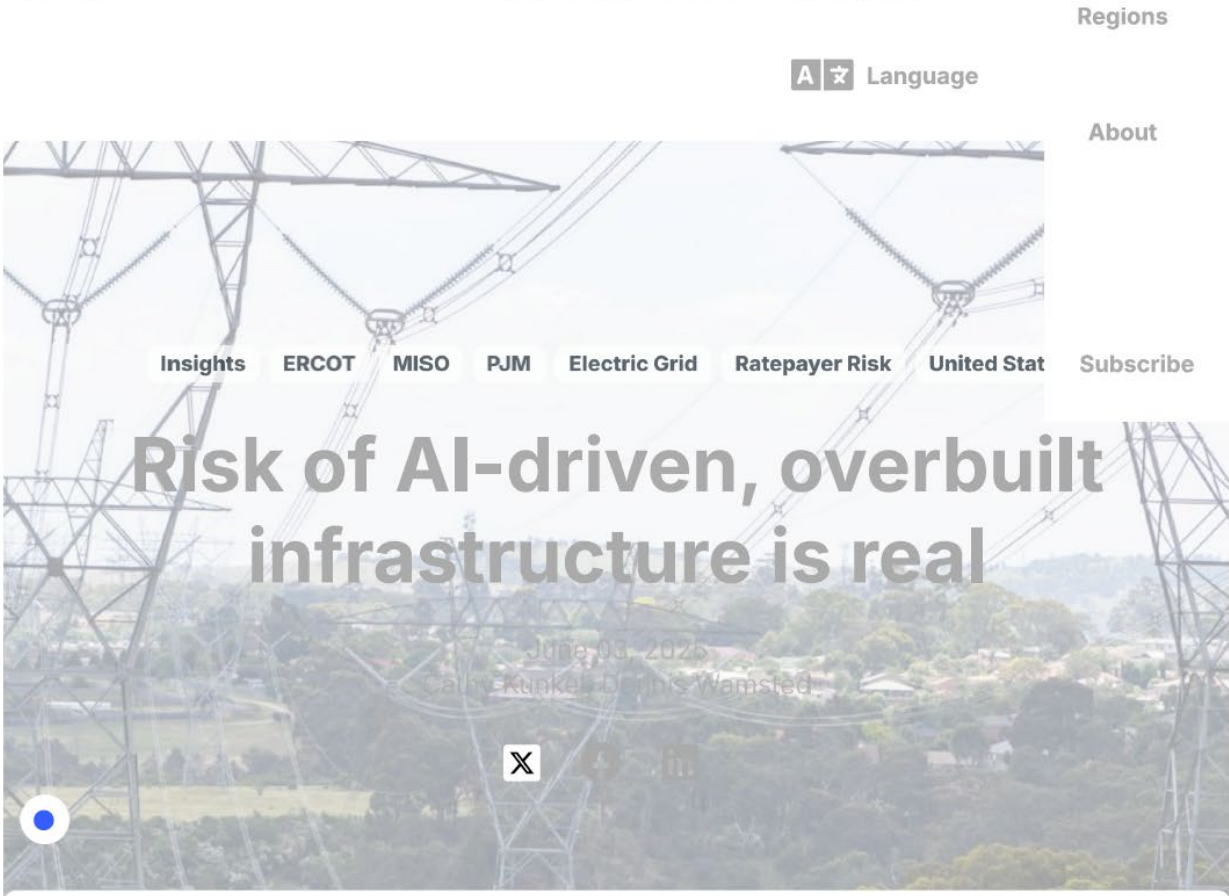
States

Resources

IEEFA 2025 Article on the Risk of Overbuilt Infrastructure for Data Centers

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Risk of AI-driven, overbuilt infrastructure is real | IEEFA



Key Findings

Advocates of increased fossil fuel infrastructure designed to meet the needs of data centers may be overstating the case for new plants.



Two of the nation's largest independent power producers are warning investors about the potential for overbuilding.



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While advocates argue that increased fossil fuel infrastructure is needed to provide power for artificial intelligence, the reality is that the AI boom is slowing.

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Are electric utilities overbuilding fossil fuel infrastructure to meet anticipated demand growth from data centers? There is certainly a growing possibility that while growth is on the way, it may not be as strong or come as soon as many utility companies currently project.

Earlier this month, the CEO of Constellation Energy, one of the nation's largest independent power producers, issued a warning to investors about overbuilding. In the company's first quarter 2025 earnings call, Joseph Dominguez pointed out that the utility industry's projections for data center demand growth in just three markets—PJM (mid-Atlantic), MISO (Midwest) and ERCOT (Texas)—exceed many credible projections for data center demand growth for the entire country: "It's hard not to conclude that the headlines are inflated."

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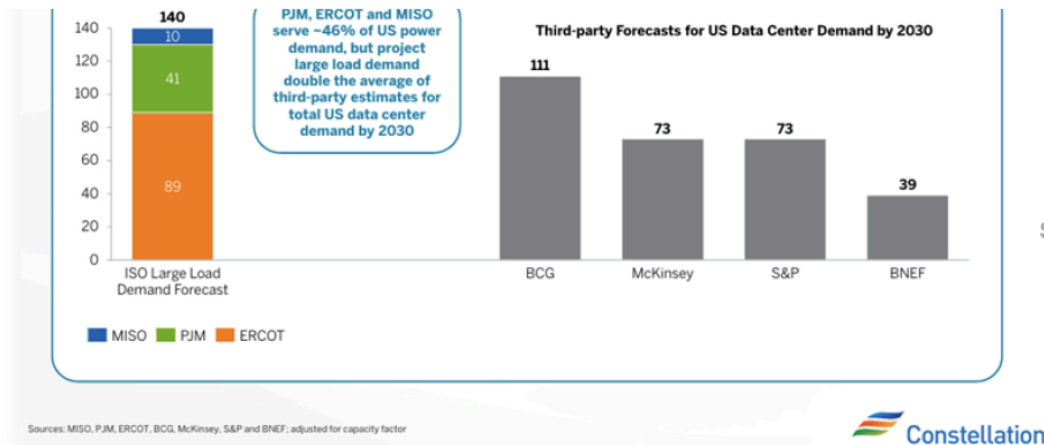
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James Burke, CEO of Vistra Energy, which bills itself as the U.S. largest independent power producer, delivered a similar caution during his company's first quarter earnings call. Responding to an analyst's question about Vistra's somewhat cautionary take on future data center demand growth, Burke pointed out that many of the requests for power likely are duplicative: "We think these interconnect queues ... may be overstated anywhere from three to five times what might actually materialize either in regulated markets or competitive markets."

There is data backing up Burke's concerns. In testimony this month on Georgia Power's current long-term resource planning process, the staff of the Georgia Public Utilities Commission (PUC) showed that the utility has significantly overstated likely demand growth from new data center construction. In part, staff said this is due to the utility's assumption that these projects are more likely to be constructed than more conventional large load facilities. The opposite is true, [according to the PUC staff](#): "Data center projects exhibit a tendency to be cancelled at a higher rate than other projects. As such, these projects should be treated with greater uncertainty."

Newsroom

Looking specifically at Georgia Power's update to its 2023 integrated resource plan, staff pointed out that 44 percent of the data center-related growth it projected (1,350 megawatts (MW) out of 12,135 MW total) has been removed from the company's estimates in just the past 18 months. The October 2023 IRP update essentially s

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This same cancellation concern has been raised by Brian FitzSimons, the CEO of GridUnity, a company that helps utilities track and process large load power requests. [FitzSimons was quoted](#) earlier this year saying that 30 percent of the proposals received by GridUnity's large utility clients were canceled in 2024.

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These warnings echo IEEFA's January 2025 report, which found that data center growth is being used to justify a buildout of natural gas infrastructure across the Southeast. In that report, we noted that utility demand growth forecasts in four states (Virginia, North Carolina, South Carolina and Georgia) outstripped—in some cases by up to a factor of four—independent analysis of data center industry trends in those same states. Similarly, a [December 2024 report](#) from Grid Strategies found that nationally, the utility industry is planning for about 50% more data center demand than the tech industry is projecting.

- Beyond the certainty of overcounting potential demand growth due to this multi-jurisdictional bidding process, there also still are major questions regarding the underlying business model for artificial intelligence and by extension, the need for all the data centers now in utilities' demand forecasts. A [January 2025 IEEFA report](#) looked at the finances of OpenAI, a leading artificial intelligence company, and concluded that the company would have trouble growing its revenues to cover its high costs, due to the nature of its business model and the high energy and infrastructure costs required to develop and run its models. Although OpenAI to date has succeeded in raising ever-growing amounts of capital, there are signs that the artificial intelligence (AI) boom is slowing.

For instance, SoftBank, in charge of raising the \$100 billion that the Stargate project announced in January that it would immediately deploy, has yet to sign any final deals. [SoftBank's credit outlook](#) was lowered to "negative" by the Japan Credit Agency in April, specifically due to its deepening investments in AI, which S&P describes as a "[creditworthiness headwind](#)."

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IEEFA 2025 Article on the Risk of Overbuilt Infrastructure for Data Centers

6/2/26, 6:59 PM

Risk of AI-driven, overbuilt infrastructure is real | IEEFA

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conference. "I start to see the [beginning of some kind of bubble](#)," he said. "I started worried when people are building data centers on spec."

Constellation's Dominguez did not use the term bubble in his remarks, but he did add a strong cautionary note about the projected AI and data center demand growth in his remarks on the company's Q1 earnings call. "But to be fair, some of the hyperbole about the size of the growth is coming from stakeholders who have their own motivations, including a desire to keep building out the wire system or competitive market utilities that simply want the right of permission to go back and build generation in a competitive market. We've been seeing that in a few places. But we also see policymakers becoming skeptical about these claims. That skepticism is warranted in our view."

That skepticism is warranted in IEEFA's view as well. If electric utilities build infrastructure —transmission lines, power plants and gas pipelines—to meet data center demand that does not materialize at the levels they anticipate, they likely will be stuck with significant stranded costs. Those stranded costs, in the absence of strong regulatory action, will be passed on to the utilities' existing electricity consumers. They also will have spent billions of dollars on fossil fuel infrastructure that could have been better spent to further the energy transition.

Newsroom

Research

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-2.45a

Respondent: S. Benyard

Page: 1 of 1

Question: 45. Refer to lines 14-24 on page 4 of Mr. Beynard's direct testimony on the Customer building and owning two distribution substations. a. Explain what role, if any, DTEE will play with the construction and operation of the substations.

Answer: The Company will review and approve selected equipment at the substations which will be constructed, owned and operated by the Customer. DTE Electric will meter and have the ability to deploy load shed controls at the customer owned substations. As described in Q14 of my direct testimony, DTE Electric will extend overhead 345kV laterals from the ITC switchyard to the Customer owned substations.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-2.45b

Respondent: S. Benyard

Page: 1 of 1

Question: 45. Refer to lines 14-24 on page 4 of Mr. Beynard's direct testimony on the Customer building and owning two distribution substations. b. If the Company will be operating the substations, is there an operating agreement in place? If yes, provide a copy. If no, explain why not.

Answer: No, DTE Electric will not be operating the Customer owned substations. Per chapter 11 of the Company's Service Installation Manual: When the installation has been approved for connection, DTE Electric Primary Services will request the DTE System Supervisor to have the substation energized. The same precautions regarding hazards taken with DTE Electric owned substations shall be observed. The operation and maintenance of the installation is the customer's responsibility. DTE Electric Primary Services may be available, in an advisory capacity, to inform the customer as to the operation and maintenance of the equipment.

[\[Primary Service Standards - Green Book\]](#)

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-2.46a

Respondent: S. Burgdorf

Page: 1 of 1

Question: 46. Refer to page 5 of Mr. Beynard's direct testimony on the ITC transmission costs. a. Explain whether the Customer will reimburse ITC directly for the capital expenditures incurred by ITC to build and upgrade the transmission lines and facilities or if the capital-related costs and operating expense for those transmission upgrades will be billed to DTEE and later passed on to the Customer.

Answer: As with other transmission costs, these will be included in the ITC rate base for its Schedule 9 charges that are passed on to ITC's customers, including to DTE Electric. These transmission costs are passed on to the Customer as part of the PSCR expense.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-2.47a

Respondent: S. Benyard

Page: 1 of 1

Question: 47. Refer to page 6 and lines 1-3 on page 7 of Mr. Beynard's direct testimony on Estimated Company Project Costs. a. Explain what work DTEE will be doing and what facilities will build if the Customer is building and owning its two substations served directly by ITC.

Answer: Refer to Q14 of my direct testimony. In addition, please refer to AGDE-2.45a.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-2.47b

Respondent: S. Benyard

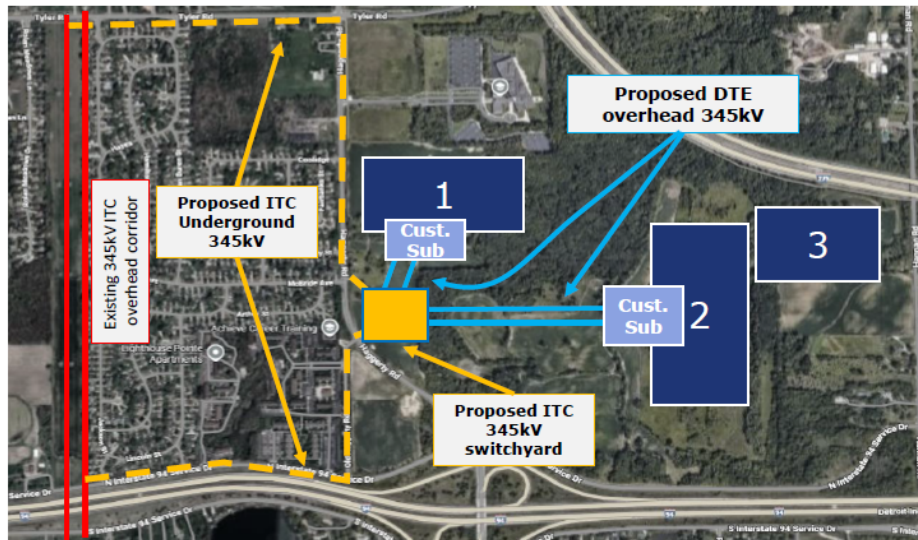
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Question: 47. Refer to page 6 and lines 1-3 on page 7 of Mr. Beynard's direct testimony on Estimated Company Project Costs. b. Provide a color-coded schematic showing how power will be delivered to the data center from ITC and all the facilities in between to be owned by ITC, DTEE, and the Customer, identifying existing facilities versus new facilities and cost of new facilities.

Answer: See attachment AGDE_2.47b for color coded schematic. Estimated costs for the new facilities are shared in A15 and A17 of my direct testimony.

Attachment: U-22058 AGDE-2.47b.

b. Provide a color-coded schematic showing how power will be delivered to the data center from ITC and all the facilities in between to be owned by ITC, DTEE, and the Customer, identifying existing facilities versus new facilities



- Existing 345kV ITC corridor to west of project site
- ITC proposes to install (2) underground routes 345kV
- ITC proposes to install (5) row breaker-and-a-half 345kV transmission switchyard
- DTE proposes to extend 345kV overhead between ITC switchyard and Customer owned substations
 - (2) 345kV overhead lines to substation at building 1
 - (3-4) 345kV overhead lines to substation at building 2
- Customer proposes to construct and own (2) 345-34.5kV substations

MPSC Case No: U-22058

Requester: MNS

Question No.: MNSDE-2.21aiv

Respondent: N. Foley

Page: 1 of 1

Question: 21. Please refer to the Company's response to STDE-1.16 and to MNSDE-1.2c. a. State whether the Company will provide in future rate cases, or any other docket, a reconciliation of Customer revenues and any of the following incremental costs or resource revenue requirements caused by serving the Customer's load: iv. The revenue requirement of transmission investments.

Answer: The Company notes that the reconciliation discussed in response to STDE-1.16 is specific to energy storage and renewable energy projects deployed under the CCAA and does not apply to resources not deployed under that agreement.

Assuming that "reconciliation" in this request refers to the presentation of aggregate costs and benefits discussed in MNSDE-1.2c and my revised direct testimony (Q38), see MNSDE-1.2d for additional detail on the presentation of aggregate benefits and aggregate costs of serving the Customer's load. The Company notes that the specific form of how aggregate costs and benefits will be presented has not yet been developed.

The Company notes that transmission costs are incurred and recovered on a system-wide basis through charges established by the transmission provider and applicable tariffs and are not billed to the Company on a project-specific basis for purposes of ratemaking. Accordingly, in the context of presenting aggregate costs, including in future PSCR proceedings, any transmission-related costs associated with serving the Customer's load would be calculated based on actual project capital costs used to estimate the revenue requirement.

To the extent that such costs arise in future PSCR proceedings, they would be presented as an estimate and included in the aggregate costs of serving the Customer's load.

Attachment: *None*

Co-Respondent: S. Burgdorf

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-1.5a

Respondent: N. Foley

Page: 1 of 1

Question: 5.a. Refer to lines 18-19 on page 12 of Mr. Foley's direct testimony on the Customer's ability to change to another rate. Please: Identify what other current rate schedule the Customer could qualify for and explain why.

Answer: Section 5.1.1 of the PSA establishes that one of the conditions of the Customer changing rates is that "(c) the new rate schedule was approved by the Commission after the Contract Date."

No new rate schedules have been approved by the Commission since the Contract Date. As such, the Customer would not qualify to switch to any other current rate schedule.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-1.5b

Respondent: N. Foley

Page: 1 of 1

Question: 5.b. Refer to lines 18-19 on page 12 of Mr. Foley's direct testimony on the Customer's ability to change to another rate. Please:
Describe what discussions have occurred between the Customer and the Company about the Customer qualifying for another existing rate schedule or establishing another rate schedule after start of Customer operations, when this shift would occur, and for what purpose.

Answer: DTE Electric objects for the reason that information related to discussions and/or negotiations between the Company and the Customer are outside the scope of the case, not proportional to the needs of the case, and not likely to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, the Company responds as follows:

The Company notes that as discussed in AGDE-1.5a, for the Customer to switch rates, the rate must be approved by the Commission after the PSA Contract Date. As such, the Commission maintains appropriate oversight of the availability of future rate schedules the Customer could switch to.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-4.79a

Respondent: S. Burgdorf

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Question: 79. Referring to the difference in Line 30 (“bundled transmission”) between Exhibits A-7 and A-9, as well as witness Bilyeu’s reference to 1.6 GW “of new renewable capacity” (Bilyeu Direct at 12:9 – 11) and witness Foley’s reference to “480 MW of energy storage projects” (Foley Direct at 4:5-6):
a. Confirm that the Company’s asserted difference in “bundled transmission” between Exhibits A-7 and A-9 does not include a projection or estimation for the impact of all transmission upgrade costs that would be associated with connecting the 1.6GW of new renewable capacity and 480 MW of energy storage projects referenced in testimony.

Answer: Confirmed. The "bundled transmission" difference reflected in Line 30 of Exhibits A-7 and A-9 represents the modeled change in the Company's MISO transmission expense allocations (Schedules 1, 9, 10, 10-FERC, 26, 26-A, and 26-C) between the Base Case and the Customer Datacenter Case, as described in my direct testimony at pages 18–21. That difference does not include any projection or estimation of transmission upgrade costs associated with interconnecting the up to 1,600 MW of renewable energy projects or up to 480 MW of energy storage projects to be developed under the CCAA. Such costs are not knowable until specific projects and their locations are identified.

Attachment: *None.*

Co-Respondent(s): N. Foley, K. Bilyeu

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-4.79b

Respondent: S. Burgdorf

Page: 1 of 1

Question: 79. Referring to the difference in Line 30 (“bundled transmission”) between Exhibits A-7 and A-9, as well as witness Bilyeu’s reference to 1.6 GW “of new renewable capacity” (Bilyeu Direct at 12:9 – 11) and witness Foley’s reference to “480 MW of energy storage projects” (Foley Direct at 4:5-6):
b. To the extent not confirming in response to Sub-Question No. 79.a above, explain how and to what degree such impact from transmission upgrade costs associated with connecting the 1.6GW of new renewable capacity and 480 MW of energy storage projects referenced in testimony is included in the difference in “bundled transmission” between Exhibits A-7 and A-9.

Answer: Not applicable. See response to AGDE-4.79a.

Attachment: *None.*

Co-Respondent(s): N. Foley, K. Bilyeu

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-4.79c

Respondent: S. Burgdorf

Page: 1 of 1

Question: 79. Referring to the difference in Line 30 (“bundled transmission”) between Exhibits A-7 and A-9, as well as witness Bilyeu’s reference to 1.6 GW “of new renewable capacity” (Bilyeu Direct at 12:9 – 11) and witness Foley’s reference to “480 MW of energy storage projects” (Foley Direct at 4:5-6):

c. To the extent not confirming in response to Sub-Question No. 79.a above, identify the amount of such projection or estimation included for the impact of all transmission upgrade costs that would be associated with connecting the 1.6GW of new renewable capacity and 480 MW of energy storage projects referenced in testimony and produce the Company’s analyses and calculations in Excel format (including any in workpaper form) demonstrating how DTE arrived at the projected or estimated amount identified. Further, explain all inputs and assumptions the Company used as part of any such analyses and calculations produced.

Answer: Not applicable. See response to AGDE-4.79a.

Attachment: *None.*

Co-Respondent(s): N. Foley, K. Bilyeu

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-4.80a

Respondent: S. Burgdorf

Page: 1 of 1

Question: 80. Refer to witness Burgdorf's asserted description of "the inclusion of the Customer's load in the Company's transmission expense allocation" (Burdorf Direct at 20:4 – 9):

a. Confirm that DTE's asserted projected cost resulting from the "transmission expense allocation" does not include the impact of all transmission upgrade costs that would be associated with connecting the 1.6GW of "new renewable capacity" (as witness Bilyeu references in direct testimony at 12:9 – 11) and 480 MW of energy storage projects (as witness Foley references in direct testimony at 4:5-6).

Answer: Confirmed. The transmission expense allocation referenced in my direct testimony at page 20, lines 4–9, reflects the impact of the Customer's load on the Company's allocations under MISO Schedules 1, 9, 10, 10-FERC, 26, 26-A, and 26-C. It does not include the impact of any transmission upgrade costs associated with interconnecting up to 1,600 MW of renewable energy projects or up to 480 MW of energy storage projects. Required transmission upgrades for CCAA resources, if any, are not knowable until projects and their locations are identified.

Attachment: *None.*

Co-Respondent(s): N. Foley, K. Bilyeu

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-4.80b

Respondent: S. Burgdorf

Page: 1 of 1

Question: 80. Refer to witness Burgdorf's asserted description of "the inclusion of the Customer's load in the Company's transmission expense allocation" (Burdorf Direct at 20:4 – 9):
b. To the extent not confirming in response to Sub-Question 80.a above, explain how the cost resulting from the "transmission expense allocation" would include the impact of all such transmission upgrade costs referenced in Sub-Question 80.a.

Answer: Not applicable. See response to AGDE-4.80a.

Attachment: *None.*

Co-Respondent(s): N. Foley, K. Bilyeu

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-4.80c

Respondent: S. Burgdorf

Page: 1 of 1

Question: 80. Refer to witness Burgdorf's asserted description of "the inclusion of the Customer's load in the Company's transmission expense allocation" (Burdorf Direct at 20:4 – 9):

c. Confirm that DTE's asserted projected cost resulting from the "transmission expense allocation" does not include the impact of all transmission costs that would be associated with delivering power to recharge the 480 MW of energy storage projects referenced in SubQuestion No. 80.a above.

Answer: Confirmed. The transmission expense allocation described in my direct testimony at page 20, lines 4–9, reflects the impact of the Customer's load on the Company's MISO transmission expense allocations and does not include the impact of any transmission costs associated with delivering power to recharge the up to 480 MW of energy storage projects referenced in Witness Foley's direct testimony at page 4, lines 5–6.

The Company will operate the CCAA energy storage projects as the MISO market participant, and the charging and discharging of those projects will occur through the MISO wholesale energy market. Required transmission upgrades, if any, associated with the interconnection of the CCAA energy storage projects are not known at this time and cannot be forecasted until projects and their locations are identified.

Attachment: *None.*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-4.80d

Respondent: S. Burgdorf

Page: 1 of 1

Question: 80. Refer to witness Burgdorf's asserted description of "the inclusion of the Customer's load in the Company's transmission expense allocation" (Burdorf Direct at 20:4 – 9):

d. To the extent not confirming in response to Sub-Question 80.c above, explain how the cost resulting from the "transmission expense allocation" would include the impact of all such transmission costs referenced in Sub-Question 80.c above.

Answer: Not applicable. See response to AGDE-4.80c.

Attachment: *None.*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.88b

Respondent: Legal

Page: 1 of 1

Question: 88. Refer to lines 11-25 on page 18 of Mr. Foley's rebuttal testimony about the Company's position that net benefits or cost shifting to other customers should be considered over the entire 20 years of the contracts term. Please: b. Is the expectation of the net benefits to other customers from the PSA and CCAA similar to the expectation of net benefits from the NEXUS transportation capacity contract, which have not yet materialized after six years from the start of the contract? If no, explain what commitment the Company is making in this case that was not made with the NEXUS contract.

Answer: The Company objects for the reason that the information requested is not relevant and is not likely to lead the discovery of admissible evidence. The Company further objections as the question seeks information outside the scope of this case, lacks foundation as Mr. Foley's rebuttal testimony does not reference a NEXUS transportation capacity contract, and assumes facts not in evidence related to a contract that is not the subject of this proceeding and has no relation to this proceeding.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.90

Respondent: A. Willis

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Question: 90. Refer to lines 9-25 on page 19 of Mr. Foley's rebuttal testimony objecting to Mr. Coppola's proposal for an annual reconciliation and deferral in a regulatory liability of the net benefits accruing to other customers. Please confirm that Exhibit A-20 assumes a perfect situation where net benefits to customers would be passed through to customers as they arise annually without regulatory lag. If not confirming, provide evidence otherwise.

Answer: The Company objects for the reasons that the request contains embedded descriptions of Exhibit A-20 ("perfect situation") that mischaracterize the exhibit, assumes facts not in evidence, and is vague and ambiguous as to "perfect situation" and "passed through to customers as they arise annually." Subject to and without waiving these objections, the Company responds as follows:

Not confirmed. Exhibit A-20 does not address the timing by which benefits will reach other customers. Please also refer to AGDE-2.68.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.94

Respondent: S. Burgdorf

Page: 1 of 1

Question: 94. Refer to table 1 on page 7 of Mr. Burgdorf's rebuttal testimony on the transmission expense comparison. Please confirm that this comparison includes only the transmission costs incurred at the Google data center site and does not include any of the transmission costs emanating from the locations where the energy storage resources and 1,600 MW of renewable projects will be sited. If confirming, explain how the Company plans to account and report the incremental transmission costs from these other sites. If not confirming, provide evidence otherwise.

Answer: Confirmed that Table 1 on page 7 of my rebuttal testimony reflects the transmission costs incurred at the Google data center site. Transmission upgrade costs, if any, for CCAA resources are not knowable until projects and their locations are identified. To the extent CCAA resources give rise to transmission upgrade costs, those costs will be either (i) incorporated into project costs paid by the Customer under the CCAA, or (ii) reflected in the Customer benefit analysis using the methodology described in Witness Foley's rebuttal testimony on page 17.

Attachment: *None.*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.73a

Respondent: N. Foley

Page: 1 of 2

Question: 73. Referring to the Clean Capacity Accelerator Agreement (“CCAA”) as referenced in DTE’s Application, including specifically Paragraphs 9.3, 3.1.6-7, 3.2.1-2, 4.1.4-5, and 4.2.1-2 of the CCAA:

a. Should a Customer Event of Default (under Section 9) occur well before the anticipated Commercial Operation Date (“COD”) for any CCAA Clean Capacity Project or Renewable Energy Project (say, for example, a year prior to any anticipated COD), would the Company provide the Customer at that time of default with revenue requirements for all projects under development and include at that time such revenue requirements in the clean and renewable project matrixes?

Answer: Yes. As governed by CCAA Section 9.3, the CCAA termination payment is equal to the sum of the remaining billing period charges (i.e., revenue requirement) for clean capacity and renewable energy projects that have been entered into either the Clean Capacity Portfolio Matrix or the Renewable Portfolio Matrix.

As governed by CCAA Section 3.1.5 for clean capacity projects and Section 4.1.3 for renewable energy projects, projects are first entered into their respective portfolio matrix “no later than thirty (30) calendar days after receipt of Commission’s approval” of the project. As such, upon termination the Customer is responsible for the remaining cost of any projects that have been approved by the Commission and entered into their respective portfolio matrix. Exhibit E to the CCAA illustrates the application of this mechanism on the basis of proxy costs and is updated based on the actual estimated revenue requirement for each project as set forth in the then-current portfolio matrix.

Importantly, as governed by CCAA Section 3.1.6 for clean capacity projects and Section 4.1.4 for renewable energy projects, the Company shall update the respective portfolio matrix *at least* thirty calendar days prior to the Commercial Operation Date (COD) of each project to include an estimated project revenue requirement and associated billing period charges. Said differently, the Company can update the respective portfolio matrix and provide an estimated

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.73a

Respondent: N. Foley

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project revenue requirement at any time between a project being entered into its respective portfolio and 30 days prior to the project achieving COD. If the Customer were to default under CCAA Section 9, and any project had been entered into its respective portfolio matrix but a revenue requirement had not yet been estimated, the Company then would provide an updated portfolio matrix with an estimated revenue requirement for any such project. The updated portfolio matrix would then form the basis for the termination payment calculation. This ensures that, regardless of where a project sits in the Section 3.1.6/4.1.4 update cycle, the termination payment reflects the remaining revenue requirement for any approved project, consistent with the protections described in my revised direct testimony at page 40, lines 1–17.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.73b

Respondent: N. Foley

Page: 1 of 1

Question: 73. Referring to the Clean Capacity Accelerator Agreement (“CCAA”) as referenced in DTE’s Application, including specifically Paragraphs 9.3, 3.1.6-7, 3.2.1-2, 4.1.4-5, and 4.2.1-2 of the CCAA:
b. If responding in any way other than “no” in response to Sub-Question 73.a above, identify in the CCAA, other agreements, or other materials any language indicating that the Company would provide revenue requirements and include revenue requirements in the clean and renewable project matrixes at the time of default (in the context described in Sub-Question 73.a above).

Answer: See response to AGDE-3.73a.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.73c

Respondent: N. Foley

Page: 1 of 1

Question: 73. Referring to the Clean Capacity Accelerator Agreement (“CCAA”) as referenced in DTE’s Application, including specifically Paragraphs 9.3, 3.1.6-7, 3.2.1-2, 4.1.4-5, and 4.2.1-2 of the CCAA:

c. Referring to CCAA Paragraph 9.3, confirm whether, in the event of a “Customer Event of Default” pursuant to Section 9 of the CCAA, the Customer is contractually obligated to pay the Termination Payment for any Clean Capacity Project or Renewable Energy Project prior to the presentation of any revenue requirement to the Customer or inclusion of any revenue requirement in the clean or renewable project portfolio matrix.

Answer: See response to AGDE-3.73a.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.73d

Respondent: N. Foley

Page: 1 of 1

Question: 73. Referring to the Clean Capacity Accelerator Agreement (“CCAA”) as referenced in DTE’s Application, including specifically Paragraphs 9.3, 3.1.6-7, 3.2.1-2, 4.1.4-5, and 4.2.1-2 of the CCAA:
d. If DTE’s response to Sub-Question No. 73.c above includes that the Customer is contractually obligated to pay the Termination Payment under Paragraph 9.3 prior to the presentation of any revenue requirement or inclusion of any revenue requirement in the clean or renewable project portfolio matrix, identify which specific paragraphs in the CCAA (or other agreements or other material) and what specific language in those paragraphs would contractually obligate the Customer as such.

Answer: See response to AGDE-3.73a.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.73e

Respondent: N. Foley

Page: 1 of 1

Question: 73. Referring to the Clean Capacity Accelerator Agreement ("CCAA") as referenced in DTE's Application, including specifically Paragraphs 9.3, 3.1.6-7, 3.2.1-2, 4.1.4-5, and 4.2.1-2 of the CCAA:
e. To the extent DTE's responses to Sub-Questions 73.b and 73.d above include references to agreements other than the CCAA or other material, please identify such agreements or material and produce such agreements or material if not already produced.

Answer: Not applicable.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.74a

Respondent: N. Foley

Page: 1 of 1

Question: 74. Referring to paragraph 7.3 of the Primary Service Agreement ("PSA"):
a. Confirm that, for each of the sub-paragraphs (1) and (2) (assuming the relevant conditions for applicability, including any necessary default events, have occurred), an early termination occurring prior to both the Load Ramp Completion Date and Commencement Date would entail a contractual obligation by the Customer to make a Termination Payment.

Answer: Confirmed.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.74b

Respondent: N. Foley

Page: 1 of 1

Question: 74. Referring to paragraph 7.3 of the Primary Service Agreement ("PSA"):
b. If not confirming in response to Sub-question 74.a above, explain why.

Answer: Not applicable.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.75

Respondent: N. Foley

Page: 1 of 1

Question: 75. If the PSA and CCAA are approved, is there any context in which the Customer would be contractually obligated to switch to a rate schedule other than Rate D11?

Answer: DTE Electric objects for the reason that the question seeks a legal conclusion and requires a speculative response as to “any context” that the Customer may be obligated to switch rates. Subject to and without waiving this objection, the Company responds as follows:

PSA Section 5.1.2 states that if “the Commission orders the termination or replacement” of D11, then the Customer would need to elect a new rate schedule subject to the terms of Section 5.1.2.

Additionally, under PSA Section 5.1.3, if the Commission finds that the costs to serve the Customer exceed the benefits of doing so, then the Customer “agrees to comply with any such ruling or order to ensure that Customer pays all costs associated with its service from Company.” Such an order could include, among other potential remedies, a requirement that the Customer take service on a newly established rate, subject to the terms of PSA Sections 5.1.3 and 5.1.4, as well as procedural protections set forth in the Michigan Administrative Procedures Act.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.76

Respondent: N. Foley

Page: 1 of 1

Question: 76. If the Company provides a response other than “no” to Question No. 75 above, please identify the agreements or other material, and the specific language in any such source, that would require the Customer to switch rate schedules and explain how such language would result in a requirement to switch rate schedules.

Answer: See response to AGDE-3.75.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.77

Respondent: N. Foley

Page: 1 of 1

Question: 77. Referring to PSA Paragraph 4.4.2: confirm whether the language “otherwise attempts to modify any term” is intended to refer only to any such action by the Commission arising in this proceeding or is intended to also encompass any such action by the Commission that might arise in a future proceeding.

Answer: DTE Electric objects for the reason that the question seeks a legal conclusion to which no response is required. The Company further objects to the extent that the question assumes facts not in evidence regarding the scope of future Commission proceedings or the existence of any future action by the Commission to modify terms of an approved special contract.

Subject to and without waiving these objections, the Company responds as follows: the language “otherwise attempts to modify any term” is intended to apply to this proceeding.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-3.78

Respondent: N. Foley

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Question: 78. Referring to PSA Paragraph 4.4.2: confirm whether the language “otherwise attempts to modify any term” is intended to include any such action by the Commission that might result in a direction to the Customer to switch to a rate schedule other than Rate D11.

Answer: DTE Electric objects for the reason that the question seeks a legal conclusion to which no response is required. DTE Electric further objects for the reason that the question is vague and unclear as to what is meant by “any such action by the Commission that might result in a direction to the customer to switch to a rate schedule other than D11.” Subject to and without waiving these objections, the Company responds as follows:

Consistent with the response to AGDE-3.77, the language "otherwise attempts to modify any term" is intended to apply to this proceeding. See response to AGDE-3.75 for the PSA terms that govern a potential rate adjustment.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.81

Respondent: N. Foley

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Question: 81. Refer to lines 18-23 on page 5 of Mr. Foley's rebuttal testimony on the insufficiency of collateral for the PSA and CCAA. Mr. Foley states that for any shortfall in collateral, the Company would not seek to recover it from other customers. Please confirm that the Company would potentially absorb any collateral shortfall, which could be up to hundreds of millions of dollars. If confirming, would the Company also absorb any other related costs, such as higher interest costs from credit downgrades by rating agencies from any negative impact on the Company's financial position and potential financial distress caused by a large collateral shortfall? If no, explain why not. If not confirming, provide evidence otherwise.

Answer: The Company objects for the reasons that the request calls for speculation related to undefined hypotheticals, assumes facts not in evidence, and is compound. The Company further objects as the question is vague, ambiguous and incapable of answer in its current form because it is unclear what is meant by "collateral shortfall", "other related costs", "higher interest rates", "credit downgrades", "negative impact on the Company's financial position", and "potential financial distress".

Subject to and without waiving this objection, the Company responds as follows: see my rebuttal testimony at Question 8 for the Company's position related to potential collateral insufficiency. The Company's position is set out in that testimony and is not expanded by this discovery response. The Company does not concede the existence or magnitude of any "collateral shortfall," "credit downgrade," "negative impact," or "financial distress" as posited by the question, and the speculative and undefined downstream financial consequences mentioned in the question are outside the record of this proceeding.

Attachment: *None*

Co-respondent: Legal

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.82

Respondent: N. Foley

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Question: 82. Refer to lines 1-7 on page 7 of Mr. Foley's rebuttal testimony on the MBD and Case Nos. U-21859 and U-21990. Irrespective of what was ruled by the Commission in those two cases, does Mr. Foley agree that at only 80% MBD other customers could potentially end up paying for any stranded costs from unused capacity not recovered through the MBD? If not agreeing, provide evidence otherwise.

Answer: The Company disagrees with the premise of the question which asserts that the Customer paying the 80% MBD would result in "unused capacity." Capacity is offered into the MISO Planning Resource Auction (PRA) and generates MISO market revenues. As such, it is not "unused".

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.83a

Respondent: N. Foley

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Question: 83. Refer to lines 9-19 on page 7 of Mr. Foley's rebuttal testimony on the termination payment being less than 20 years. Please: a. Explain and show through an example how Section 7.3(3) of the PSA results in termination payments for the full 20-year term of the PSA.

Answer: Section 7.3(3) of the PSA (see Exhibit A-16 as amended by Exhibit A-22) governs the termination payment after the 13th anniversary of the Load Ramp Completion Date, and defines such termination payment as: "an amount equal to the sum of the Minimum Monthly Charge for the lesser of: (a) twenty-four (24) months, and (b) each month between the Early Termination Date and the expiration date of the Term." The purpose of Section 7.3(3) is to ensure that if the PSA is terminated at any time during the term of the PSA, the Customer remains responsible for a termination payment. For example, if the PSA were terminated on the 16th anniversary of the Load Ramp Completion Date and there were 30 months left in the term of the PSA, then the Customer would owe a termination payment equal to 24 months of Minimum Monthly Charges (i.e., the lesser of 24 months or the 30 months left in the term of the PSA).

To the extent that the question suggests that Section 7.3(3) does not require a termination payment equal to 20-years of MMC, that is correct, however, it may result in the Customer paying the Minimum Monthly Charge until the contract term expires on the 20th anniversary of the Commencement Date. For example, if the Customer terminates with 23 months remaining on the contract term, under Section 7.3(3) they will pay a termination payment equal to the Minimum Monthly Charge multiplied by 23 months.

Exhibit E of the PSA provides an illustrative calculation of the termination payment that would be in effect during the term of the PSA, which demonstrates that the Customer would be subject to a termination payment during the entire 20-year term of the PSA.

Attachment: None

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.83c

Respondent: N. Foley

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Question: 83. Refer to lines 9-19 on page 7 of Mr. Foley's rebuttal testimony on the termination payment being less than 20 years. Please: c. Identify the maximum number of months that could be used to calculate a Termination Payment under Paragraph 7.3(1) of the PSA.

Answer: If the PSA were to be terminated subject to Section 7.3(1), then 192 months would be the maximum number of months used to calculate the termination payment (i.e., 12-month ramp period plus 15 years post Load Ramp Completion Date if the termination occurs prior to the Commencement Date).

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.83d

Respondent: N. Foley

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Question: 83. Refer to lines 9-19 on page 7 of Mr. Foley's rebuttal testimony on the termination payment being less than 20 years. Please: d. Identify the maximum number of months that could be used to calculate a Termination Payment under Paragraph 7.3(2) of the PSA (including as the Company now purports to amend per Exhibit A-22).

Answer: If the PSA were to be terminated subject to Section 7.3(2), then 192 months would be used to calculate the termination payment (i.e., 12-month ramp period plus 15 years post Load Ramp Completion Date). This is the maximum number of months that could be used to calculate the termination payment.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.85a

Respondent: N. Foley

Page: 1 of 1

Question: 85. Refer to lines 11-13 on page 8 of Mr. Foley's rebuttal testimony: a. Confirm that Consumers Energy was not requesting approval for contract or other terms specific to a single data center customer in Case U-21859. If not confirming, provide evidence otherwise.

Answer: Confirmed to the extent the question is asking whether U-21859 sought approval of a special contract. However, Case U-21859 involved approval of contract and other terms that will be applied potentially to multiple single customers.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.85b

Respondent: N. Foley

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Question: 85. Refer to lines 11-13 on page 8 of Mr. Foley's rebuttal testimony: b. To the Company's review of Case U-21859, did Consumers Energy purport to present cost projections for a specific data center customer in Case U-21859? If so, identify where in Case U-21859 such cost projections were presented.

Answer: The Company is not aware of a specific data center customer cost projection presented in Case U-21859.

Page 8, lines 11-13 of my rebuttal testimony does not suggest that specific customer cost projections were presented in U-21859 and instead suggests that irrespective of whether there is an actual customer contract at issue it would have been possible to calculate the termination payment for a hypothetical customer where the proposed contract term, rate schedule, and minimum billing demand are known.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.87

Respondent: N. Foley

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Question: 87. Refer to lines 6-16 on page 17 of Mr. Foley's rebuttal testimony about the Company being able to identify and report on transmission-related costs. Please explain whether the Company has requested or plans to request ITC to provide site specific capital expenditures, related capital costs, and O&M expenses to allow the Company to provide an accurate accounting of the site specific transmission costs related to each data center customer. If not, explain how the Company will be able to accurately estimate these costs.

Answer: As discussed in my rebuttal testimony, the Company plans to use project capital costs that are publicly available through ITC's Attachment O filings to MISO. The Company has not requested site specific O&M expenses for the Customer from ITC and ITC has no obligation to provide such information. However, as discussed in my rebuttal testimony, to the extent additional information is available the Company will report transmission-related costs using the best available information (page 17, line 6).

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.88a

Respondent: N. Foley

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Question: 88. Refer to lines 11-25 on page 18 of Mr. Foley's rebuttal testimony about the Company's position that net benefits or cost shifting to other customers should be considered over the entire 20 years of the contracts term. Please: a. Explain what obligation or commitment the Company should be held to if net financial benefits do not begin to show at the 5-year, 10-year, 15-year and 20-year point of the term of the PSA and CCAA.

Answer: The Company objects for the reasons that the request (i) requires speculation, (ii) is vague and ambiguous as to "obligation or commitment the Company should be held to" and "net financial benefits," (iii) is overbroad and seeks information not relevant to this proceeding, and (iv) seeks to impose new commitments beyond those reflected in the PSA and CCAA.

Subject to and without waiving this objection, the Company responds as follows: as stated in my rebuttal testimony (page 24, line 17) the Company will present aggregate costs and benefits of serving the Customer in rate cases and PSCR proceedings, both of which are contested proceedings. If the Commission determines that the benefits do not exceed the costs, Section 5.1.3 of the PSA is applicable.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.89

Respondent: N. Foley

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Question: 89. Refer to lines 9-25 on page 19 of Mr. Foley's rebuttal testimony objecting to Mr. Coppola's proposal for an annual reconciliation and deferral in a regulatory liability of the net benefits accruing to other customers. Please confirm that PSCR cost savings from large data center customers could be passed through to other customers by adjusting the PSCR factor monthly and a base rates portion of net benefits could be captured and deferred in a regulatory liability account for crediting to customers in a subsequent rate case, and the Company could still perform an annual reconciliation report. If not confirming, explain why not.

Answer: The Company objects for the reason that the question is vague, ambiguous and incapable of answer in its current form because it is unclear what is meant by "PSCR cost savings from large data center customers could be passed through to other customers by adjusting the PSCR factor monthly." The question lacks detail about the mechanics of the suggested pass-through mechanism, and therefore the Company cannot respond. For example, it is not clear when such "cost savings" would be calculated, if and when such "cost savings" would be reviewed and approved by the Commission, or how such a mechanism would comport with existing PSCR filings. It is also unclear what is meant by "could be captured and deferred in a regulatory liability account for crediting to customers in a subsequent rate case." The question lacks detail about the mechanics of the suggested deferral mechanism, and therefore the Company cannot respond. For example, it is not clear when such "base rates portion of net benefits" would be calculated, if and when such "base rates portion of net benefits" would be reviewed and approved by the Commission, or how such a mechanism would comport with existing rate case processes.

Subject to and without waiving this objection, the Company responds as follows: Regarding the PSCR, the PSCR factor is periodically adjusted to align PSCR revenues to PSCR expenses and will, through existing processes, include the beneficial effects of the Customer load. Thus, no "adjustment" is required for other customers to receive the beneficial impact of the Customer's load on the PSCR factor. Regarding base rates, the impact of the Customer's

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Requester: AG

Question No.: AGDE-5.89

Respondent: N. Foley

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load will already be addressed through existing rate case processes. Thus, the proposed regulatory liability is not required for other customers to receive the beneficial impact of the Customer's load on base rates.

Attachment: *None*

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.91

Respondent: N. Foley

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Question: 91. Refer to lines 9-25 on page 19 of Mr. Foley's rebuttal testimony objecting to Mr. Coppola's proposal for an annual reconciliation and deferral in a regulatory liability of the net benefits accruing to other customers. Please confirm that under the Company's preferred approach, the Company would still need to file a rate case and adjust customer base rates in order for other customers to receive the net benefits. If not confirming, provide evidence otherwise.

Answer: The Company objects to this request for the reasons that it calls for speculation, seeks information not relevant to this proceeding, and it is unclear what is meant by the reference to "net benefits".

Subject to and without waiving this objection, the Company responds as follows: Not confirmed. PSCR cost savings will be realized through the existing PSCR mechanism which does not require the Company to file a rate case.

The non-PSCR benefits, including avoided costs, associated with serving the Customer's load will be reflected in base rates over time, resulting in lower rates than would otherwise be expected absent that load. These benefits may be incorporated through future rate or regulatory proceedings, as appropriate, although do not require a rate case filing in order for customers to experience the benefit.

Attachment: None

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.92

Respondent: N. Foley

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Question: 92. Refer to lines 9-25 on page 19 of Mr. Foley's rebuttal testimony objecting to Mr. Coppola's proposal for an annual reconciliation and deferral in a regulatory liability of the net benefits accruing to other customers. Please confirm the following example: If the Company does not file a general rate case in 2027 and 2028 but files a rate case in 2029 with a 2031 projected test year, in this scenario the Company will have retained any net benefits that accrued in 2027 through 2030 and would reflect in base rates only the forecasted benefits for the 2031 test year. If confirming, also confirm that the same outcome would repeat in future years, where only the net benefits for the projected test year would be reflected in base rates. If not confirming provide evidence otherwise.

Answer: The Company objects for the reasons that the question calls for speculation, is vague and ambiguous and as it is unclear what is meant by "net benefits" and assumes that the any such net benefits can be "retained".

Subject to and without waiving this objection, the Company responds as follows: assuming that "retained any net benefits" means realizing increases to pre-tax net income, then not confirmed. In general, to the extent that there is revenue generated by Customer sales that is not assumed in base rates, then the Company intends to use that revenue to the benefit of customers by supporting the Company's objective of providing safe and reliable electric service, offsetting the need to request a rate increase. Note also that there are also avoided costs that other customers benefit from through the Company's provision of service to the Customer.

Attachment: *None*

Co-respondent: Legal

MPSC Case No: U-22058

Requester: AG

Question No.: AGDE-5.93

Respondent: N. Foley

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Question: 93. Refer to Section 2 of the First Amendment to the PSA in Exhibit A-22. Does the amended language in Section 2 result in the Customer not being responsible for any termination payments from the Commencement Date to the Load Ramp Completion Date? If yes, explain why this is reasonable and why other customers should be exposed to this risk. If no, explain how the Customer will be responsible for those payments, for how much, and how they will be calculated.

Answer: No. Section 7.3 states that “Customer agrees that if this Agreement is so terminated on or after the Effective Date” that it will pay a termination payment equal to the calculation set forth in either Section 7.3(1), 7.3(2) or 7.3(3). The Effective Date is the date upon which all of the conditions precedent in Section 4.1 are satisfied. The Load Ramp Completion Date is used in Sections 7.3(1) through 7.3(3) for purposes of calculating the termination payment, not for determining the applicability of the payment. The amended PSA Section 7.3(2) states:

“(2) prior to the thirteenth (13th) anniversary of the Load Ramp Completion Date, by Company due to a Customer Event of Default, then Customer shall pay to Company, as a fair estimate of such damages and not as a penalty, liquidated damages in an amount equal to the sum of the Minimum Monthly Charge for each month between the Early Termination Date and the fifteenth (15th) anniversary of the Load Ramp Completion Date...”

As such, if the PSA is terminated following the Effective Date, but prior to the Load Ramp Completion Date or Commencement Date then the Customer would be responsible for a termination payment “equal to the sum of the Minimum Monthly Charge for each month between the Early Termination Date and the fifteenth (15th) anniversary of the Load Ramp Completion Date.”

Attachment: *None*

Co-respondent: Legal