NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES
Resolution 2026-02

NASUCA Resolution Supporting Protections for Non-Hyperscale Load Customers From Actual and Projected Hyperscale Load Growth

***Whereas*,** the National Association of State Utility Consumer Advocates (NASUCA) recognizes that states have different concerns and goals with respect to load growth and economic development;

Whereas, existing utility laws and regulations and policies are generally structured to accommodate historically gradual and diverse demand growth;

Whereas, states now face demand growth that is rapid, intense, and concentrated associated with hyperscale loads;

Whereas, while NASUCA recognizes that the exact definition, size, and scale of a "large load" or "hyperscale load" will vary from state to state according to each state's interests, NASUCA is concerned about the incremental impact on non-hyperscale load customers from new load that is distinguished from historically served loads by their massive scale, high sustained load factor, and often high-density geographic clustering, need for significant dedicated generation, transmission, or distribution investments, uncertain development timelines or ultimate demand, phased development, request for service on timelines that outpace traditional utility planning, and the potential to materially affect rates, reliability, and resource adequacy (hereinafter "hyperscale load");

Whereas, the uniquely large size, accelerating pace of growth, uncertain timing, ultimate magnitude and speculative nature of projected hyperscale load forecasts create substantial planning uncertainty that can adversely affect both electric system reliability and the affordability of electric service for non-hyperscale load customers;

Whereas, because of current energy policies and electricity market structures, non-hyperscale load customers face the risk of paying additional costs associated with hyperscale load development;

Whereas, costs associated with hyperscale load should be allocated in accordance with established cost-causation principles so that non-hyperscale load customers are responsible only for the costs they cause to be incurred;

Whereas, current cost allocation methodologies may not adequately capture and assign all costs that a utility incurs to address hyperscale load;

***Whereas*,** the impacts of hyperscale load growth may impede a state's ability to meet its own energy policies, goals, and legal requirements;

Infrastructure Development and Costs

Whereas, the speed and scope of hyperscale load growth may trigger the building of new power generation plants;

Whereas, forecasts of energy demand from hyperscale load can result in significant infrastructure development, resulting in potential additional costs for all customers;

Whereas, forecasts of artificial intelligence-related electricity demand vary substantially among market participants and remain subject to significant uncertainty regarding technological development, computing efficiency, hardware evolution, customer deployment schedules, and future market conditions, requiring careful regulatory scrutiny before infrastructure costs are incurred and assigned to customers;

Whereas, the long lead times required to plan, permit, and construct transmission and distribution infrastructure relative to the rapid pace of evolution in hyperscale load technology create a risk that infrastructure built to serve projected large load demand may be underutilized, oversized, prematurely obsolete, or ultimately unnecessary because actual load development differs materially from projected demand;

Whereas, infrastructure constructed to serve hyperscale load may become underutilized, unnecessary, or stranded if projected demand fails to materialize or does not remain on the electric system over the useful life of assets;

Whereas, in some cases, utilities have relied upon non-binding expressions of interest, preliminary studies, or non-binding customer commitments or preliminary development announcements as the basis for major infrastructure investments**;**

Whereas, utilities seeking approval for infrastructure investments associated with projected hyperscale load do not always provide sufficient information to demonstrate the basis for the proposed investment and the potential exposure for consumers to stranded cost risk under alternative load scenarios;

Whereas, confidentiality agreements between utilities and prospective hyperscale load customers have prevented commissions, consumer advocates, or other parties from obtaining sufficient information;

Whereas, hyperscale loads directly impact electric transmission planning and existing electric transmission systems and can potentially increase costs regardless of whether they provide onsite generation or plan to utilize the transmission system;

Whereas, the energy demand from and characteristics of hyperscale load may be straining electric generation, distribution, and transmission systems, and causing or potentially causing operational reliability and resource adequacy issues within States and across State lines;

Whereas, hyperscale loads may also directly or indirectly impact water and gas supplies and their associated infrastructure costs;

NOW THEREFORE BE IT RESOLVED, hyperscale load owners and operators should be held fully responsible for all costs as well as financial and reliability risks they create;

Be it further resolved, non-hyperscale load consumers should not be held responsible for any incremental costs or financial risks of new infrastructure investments due to projected or actual hyperscale load growth;

Be it further resolved, non-hyperscale load customers should not bear the financial consequences of inaccurate forecasts, cancelled or delayed projects, phased developments, customer departures, or reduced utilization associated with hyperscale load development that would not exist but for the projected or actual hyperscale load;

Be it further resolved, that NASUCA supports federal and state efforts to ensure that hyperscale load customers appropriately bear responsibility for capacity, energy, transmission, distribution, and related costs that these customers impose on electric systems, such as:

- state and federal policies that ensure hyperscale loads coming online are in alignment with applicable local, state, and federal laws and policies;
- transparency at state and federal agencies and commissions addressing these concerns through proceedings open to all interested parties;
- the necessary federal oversight of electric transmission systems and incremental costs at the RTO level;
- state retention of the non-exclusive right to regulate the interconnection of hyperscale loads to electric utility systems;
- state, regional, and/or federal rules and mechanisms to ensure hyperscale loads pay for local electric transmission, distribution, generation, O&M, and other indirect system costs as well as system protection and distribution, generation, and system protection upgrades that would not be needed without the new or projected load;
- state and federal policies that place the costs of managing reliability risks created by hyperscale loads on the entities that create those risks;
- state hyperscale load tariffs that hold hyperscale load customers fully responsible for all costs they impose on the system for the useful life of all assets built to support their needs, including the decommissioning of assets at the end of their useful lives. Such tariffs should be supported by a transparent cost-of-service analysis demonstrating that costs are allocated consistent with cost-causation principles and that consumers are adequately protected from cost shifting and stranded cost risk;
- state electric load curtailment policies that prioritize the curtailment of hyperscale load customers before residential consumers;
- state policies that ensure confidentiality agreements do not prevent commissions and authorized parties from obtaining sufficient information to evaluate infrastructure investments, cost allocation, and consumer impacts through appropriate confidential procedures;
- state policies that permit commissions to apply new consumer-protection requirements prospectively to existing hyperscale load customers when those customers seek expanded service, materially increase demand, or require additional infrastructure investments;

- state policies requiring that special contracts or negotiated service agreements for hyperscale load customers demonstrate that non-hyperscale load customers will not subsidize the hyperscale load customer's service or bear unreasonable financial risks;
- federal technical assistance for states to evaluate the need for new hyperscale load rate classes to more effectively assign costs caused by hyperscale loads;
- development of improved FERC jurisdictional load forecasting methodologies with timely updates as projects progress and utilities demonstrate that material infrastructure investments remain justified based upon current information rather than outdated forecasts;
- improved cost tracking and allocation methodologies for FERC jurisdictional costs to allow states to appropriately assign costs;

Be it further resolved, that increased federal and state oversight is necessary to ensure that the interconnection of hyperscale load to electric transmission and delivery service infrastructure does not create reliability deficits or increase costs for electricity consumers;

Be it further resolved, NASUCA encourages states to review their cost allocation methodologies to ensure that all costs to serve hyperscale loads are not inadvertently shifted onto non-hyperscale load customers and customers classes that are not responsible for the costs;

Be it further resolved*,* NASUCA encourages state commissions to require utilities seeking recovery of infrastructure costs associated with hyperscale load growth to publicly identify the assumptions supporting those investments, including projected load, customer commitments where appropriate, expected utilization, revenue assumptions, and analyses demonstrating that non-hyperscale load customers will not bear costs caused by forecast errors or stranded assets;

Be it further resolved, NASUCA supports the use of financial assurances, minimum load commitments, exit fees, construction deposits, contractual guarantees, or other mechanisms sufficient to protect non-hyperscale load customers from stranded costs resulting from delayed, reduced, or abandoned hyperscale load projects;

Be it further resolved*,* NASUCA encourages state and federal interagency coordination to ensure hyperscale load growth does not negatively impact natural gas availability for local gas distribution companies or deplete or otherwise negatively impact regional and local water supplies;

Be it further resolved*,* NASUCA encourages collaboration among regional transmission authorities, independent system operators, utilities, commissions, and consumer advocates to enable consistent and accurate hyperscale load forecasting;

Be it further resolved, that NASUCA authorizes its Executive Committee to develop specific positions and take appropriate actions, consistent with the terms of this resolution and the needs of its Members and their utility consumers. The Executive Committee shall notify the membership of any action pursuant to this resolution.

Approved by the Membership
July 19, 2026
Minneapolis, Minnesota