NARUC
National Association of
Regulatory Utility Commissioners

NATIONAL ASSOCIATION
OF STATE UTILITY
CONSUMER ADVOCATES
NASUCA

November 2, 2026

James J. Moloney, Director, Division of Corporation Finance
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: Applying the Division's July 29, 2026 Data Center Securitization Letter to Utility Recovery Bonds; File No. S7-2025-04

Dear Director Moloney:

The National Association of Regulatory Utility Commissioners ("NARUC") and the National Association of State Utility Consumer Advocates ("NASUCA") write this letter today to follow up on how utility recovery bonds ("URBs") are classified under the federal securities laws. This letter also notes that the recent data center securitization letter issued by the Division of Corporation Finance ("Division") makes this point even more clearly than before.

Both NARUC and NASUCA adopted resolutions at their November 2024 annual meetings supporting efforts of a broader coalition of entities. NARUC's resolution may be found on page 7 here; NASUCA's resolution may be found here. The resolutions ask the SEC to find that utility recovery bonds be classified as corporate bonds, not asset-backed securities.

On July 29, 2026, the Division's Office of Structured Finance concluded that securities issued in certain data center securitizations ("DCS") are not asset-backed securities as defined in section 3(a)(79) of the Securities Exchange Act of 1934. In plain terms, the Division agreed that, even though these deals involve leases and other customer contracts, investors are really being repaid from the ongoing success of a business, not from a pool of assets that by their terms convert into cash over time. Because the repayment depends on how well the business is run, rather than on assets that "self-liquidate," the Division said these securities fall outside the ABS definition.

URBs deserve the same treatment for the same reason. Both DCS and URBs share the same basic features: first, in each, an affiliate of an operating company, through its interest in the operating company's business, has rights to certain cash flow from the company's operations, which cash flows are the principal source of payments on the bonds; and second, that interest is neither self-liquidating nor a financial asset.

URBs are backed only by the utility-servicer's regulatory right to charge customers for future electricity use, a charge that doesn't exist much less generate cash flow unless and until the utility actually delivers power and bills for it. Simply put, this regulatory right establishes the affiliate's entitlement to certain cash flows from the utility's business and operations; it does not "convert to cash" by its terms.

In addition, this charge is not fixed. It is reset periodically by the utility-servicer pursuant to a true-up process. These periodic true-up adjustments, which correct for undercollections and overcollections, are based on the utility-servicer's updated forecasts of retail customer consumption of electricity, as well as updated collection curves and updated forecasts of uncollectible accounts. These forecasts of consumption, collections, and uncollectible accounts require substantial ongoing activities and analysis by the utility-servicer, including seasoned expertise and substantial exercises of judgment and discretion.

For nearly twenty years URBs were registered as corporate securities, with prospectus disclosure developed under the principles of Regulation S-K on Forms S-1 and S-3. For nearly thirty years, URBs have been characterized as ordinary corporate securities, not as ABS.

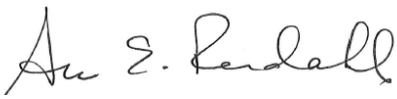
If data center deals, which do include pledged customer leases and other customer contracts, are not ABS, then URBs, which include no asset pool whatsoever, should not be ABS either. A side-by-side comparison of true ABS, DCS, and URBs is attached.

This distinction has real consequences. URB financing costs are paid directly by utility customers. Treating URBs as ABS may increase those costs unnecessarily, impacting utility customer rate affordability. Fixing this would also support the broader policy goal of enabling the buildout of AI and data center infrastructure without shifting its costs onto ordinary ratepayers.

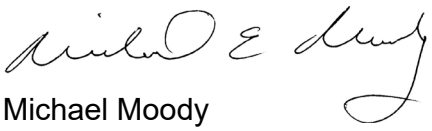
We request that the Division withdraw or revise its July 31, 2024 and May 16, 2025 CFI guidance on URBs and confirm that URBs are not asset-backed securities under Regulation AB or Section 3(a)(79) of the Exchange Act, for the same reasons the Division applied to data center securitizations.

Thank you for your continued attention to this matter.

Respectfully,



Hon. Ann Rendahl
President, NARUC
Commissioner, Washington Utilities & Transportation Commission



Michael Moody
President, NASUCA
Division Chief, Special Litigation Division
Michigan Department of Attorney General

cc: Rule-comments@sec.gov (File No. S7-2025-04)

SIDE-BY-SIDE COMPARISON OF TRUE ABS, DCS, AND URBS

	True ABS (auto loans/ leases, credit cards, mortgages)	Data Center Securitization — Staff: not ABS	Utility Recovery Bonds
Collateral	Existing loans, leases, mortgages, receivables	Economic interest in business/operations, principally, customer contracts (incl. leases)	Recovery property — economic interest in business/operations; right to impose and adjust customer charges in connection with future utility operations and sales, with a state pledge of non-interference
Secured by a pool of financial assets?	**Yes** — entirely	**Yes** — principally leases and other customer contracts, with additional pledge of tangible assets (though repayment is not primarily dependent on sale of tangible assets)	**None** — recovery property is a regulatory right to charge and collect a tariff arising by operation of law; right does not arise by contract and is not a financial asset or pool of financial assets
Converts to cash "by its terms"?	**Yes** — within a finite period	**No** — cash arises principally from future business/operations and includes leases and other customer contracts as well as tangible data center facilities that endure	**No** — cash arises from future business/ operations; a charge must be set and imposed for each payment date based on projected future consumption
Source of investor payments	Passive collection of scheduled payments	Cash flow from a managed operating business	Cash flow from a managed operating business — charges billed and collected by the operating utility based on forecasted and then actual sales, continually repeated
Depends on ongoing operations?	**No**	**Yes, principally**	**Yes, wholly** — the utility actively manages the true-up as an integral part of its business, forecasting consumption, collections, and uncollectibles to reset charges; the utility must produce electric service and customers must purchase it
Ring-fencing	**Yes** — ABS investor interest is isolated from sponsor's operating business	**Yes** — DCS investor is isolated from the other activities of the operator or manager	**Yes** — URB investor is isolated from the other activities of the utility's business
Staff position today	Exchange Act ABS	Not ABS (July 29, 2026 letter)	ABS under the CFIs (July 31, 2024; May 16, 2025)