ASSEMBLY, No. 5811

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED NOVEMBER 16, 2026

Sponsored by:
Assemblyman BALVIR SINGH
District 7 (Burlington)

SYNOPSIS

"Ratepayer-Indifference Act"; establishes certain requirements for provision of electric public utility service to certain data centers.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning the provision of electric public utility service to certain data centers, supplementing Title 48 of the Revised Statutes, and amending P.L.2026, c.32.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. (New section) Section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) shall be known and may be cited as the "Ratepayer-Indifference Act."

2. a. (New Section) As used in this section:

"Actual or projected system cost" means the cost borne by an electric public utility, whether directly or indirectly, to operate its electric transmission and distribution system and provide service to its customer base with the additional demand presented by a large data center customer, which cost shall include, but not be limited to, wholesale energy costs, capacity procurement costs, regional transmission organization charges, costs due to reduced system reserve margins, costs due to the need to procure additional generation or capacity resources, transmission and reliability costs, and other systemwide costs due to the additional demand presented by a large data center.

"Baseline system cost" means the cost borne by an electric public utility, whether directly or indirectly, to operate its electric transmission and distribution system and provide service to its customer base without the additional demand presented by a large data center customer.

"Board" means the New Jersey Board of Public Utilities or its successor.

"Electric public utility" means the same as the term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Incremental cost" means the cost borne by an electric public utility, whether directly or indirectly, to provide service to a large data center customer.

"Large data center" and "large data center customer" mean the same as those terms are defined pursuant to section 1 of P.L.2026, c.32 (C.48:7-6.2).

b. (1) Each year, the board shall determine the incremental cost associated with a large data center customer using: actual load information for the large data center customer from the preceding year; or, if the large data center customer has not been operating within the State for a complete year prior to the board's determination of incremental cost in any given year, projected load information for one year submitted by the large data center

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.

customer and approved by the board. If a large data center customer's incremental cost exceeds the amount of monies collected from the large data center customer in tariffs and other charges for the provision of electric public utility service for the previous year, the electric public utility may recover the difference exclusively from the large data center customer, subject to board approval. However, if the amount of monies collected from a large data center customer in tariffs and other charges for the provision of electric public utility service exceeds the large data center customer's incremental cost for the previous year, then the difference shall be returned to the large data center customer pursuant to a mechanism established by the board.

(2) To determine the incremental cost associated with a large data center customer, the board shall compare an electric public utility's baseline system costs and the actual or projected system costs over the course of one year. The incremental cost associated with the large data center customer shall equal the difference between the utility's baseline system costs and the actual or projected system costs for the one-year assessment period. However, the board may reduce the value of a large data center customer's incremental cost by the cumulative value, as determined by the board, of the resources outlined in a large data center customer's plan pursuant subsection c. of this section, provided that the resources outlined in the plan are measurable, verifiable, additional, deliverable to the electric transmission and distribution system of the affected electric public utility, available during periods of system need, and not already in service of another requirement under State law.

c. (1) Upon request, each large data center customer, in consultation with the servicing electric public utility, shall submit to the board for approval a plan for: payment of the incremental cost associated with the large data center customer, as calculated pursuant to subsection b. of this section; and procurement of sufficient energy, capacity, demand response, storage, and generation resources to meet the large data center customer's additional demand for electricity.

(2) Notwithstanding any other law, rule, regulation, or order to the contrary, the board shall not approve any agreement or proposal associated with the provision of new electric public utility service, or the expansion of existing electric public utility service, to a large data center customer, including, but not limited to, the approval of any tariff, service agreement, interconnection agreement, infrastructure investment, energy procurement agreement, or request submitted by an electric public utility to recover costs associated with the provision of new or expanded service to a large data center customer, unless the board has approved a large data center customer's plan submitted pursuant to paragraph (1) of this subsection, thereby determining that the large data center customer

can pay for its incremental cost and has procured sufficient resources to meet the large data center customer's electricity demand.

d. An electric public utility shall not recover the incremental cost associated with a large data center customer located in its service area through the electric public utility rates and other charges assessed to its non-large data center customers.

e. One year after the effective date of this section, and each year thereafter, the board shall submit a report to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), that includes the following information for each electric public utility:

(1) total electric load attributable to large data center customers;

(2) incremental supply, capacity, transmission, distribution, reliability, and ancillary service costs;

(3) the amount of monies recovered from large data center customers and non-large data center customers;

(4) the amount of new generation, storage, demand response, energy efficiency, or other resources procured by large data center customers;

(5) the number of plans submitted to the board pursuant to subsection c. of this section that were rejected by the board;

(6) whether non-large data center customers incurred increased costs due to the incremental cost associated with a large data center customer and, if so, an explanation for the increased costs and whether the board took corrective actions to address the increased costs; and

(7) any other information deemed necessary by the board to determine compliance with the provisions of this section.

f. Nothing in this section shall be construed to violate the terms of a contract for service between an electric public utility and a large data center customer that were entered into prior to the effective date of this section. However, the provisions of this section shall apply to any such contract if the contract terms are revised after the effective date of this section to expand electric public utility service to the large data center customer.

2. Section 1 of P.L.2026, c.32 (C.48:7-6.2) is amended as follows:

1. a. As used in this section:

"Board" means the Board of Public Utilities.

"Capacity resource" means an energy resource, including generation, energy storage, demand response, demand reduction, energy efficiency, or any combination thereof, that the board, consistent with paragraph (7) of subsection b. of this section, determines is capable of contributing to system reliability during periods of peak demand or high-risk operating conditions, and that has been assessed a capacity value pursuant to that paragraph.

"Co-located generation" means an electric power generation facility that is interconnected directly with a data center customer's electrical load, regardless of whether or not the facility is also interconnected with the transmission or distribution system, and regardless of whether or not the customer receives supplemental or backup service from an electric public utility. "Co-located generation" shall not include emergency electric power generation.

"Demand flexibility" means the ability of a customer to modify the timing, level, or pattern of their electricity consumption in response to grid conditions, price signals, reliability needs, or direction from the electric public utility or regional transmission organization, including through load curtailment, load shifting, on-site generation dispatch, and energy storage.

"Electric public utility" means the same as the term is defined in section 3 of P.L.1999, c.23 (C.48:3-51).

"Large data center" means a data center that meets the size threshold and other defining characteristics established by the board pursuant to paragraph (1) of subsection b. of this section.

"Large data center customer" means a customer of an electric public utility responsible for one or more large data centers served by that electric public utility and that meets the defining characteristics established by the board pursuant to paragraph (1) of subsection b. of this section.

b. No later than 12 months after the effective date of this section, the Board of Public Utilities shall establish, by order for every electric public utility, standards for the provision of electricity to large data center customers by electric public utilities. The standards shall be developed with stakeholder input and designed to:

(1) identify the appropriate defining characteristics of a "large data center" and a "large data center customer" for each electric public utility including, but not limited to, minimum megawatt size designation, which shall not be greater than 50 megawatts. For the purpose of defining "large data center," the board shall aggregate the peak monthly energy demand of any data centers that are under common ownership or control, located on the same site or contiguous sites, or share substantial physical, operational, or interconnection infrastructure, and shall treat such aggregated facilities as a single large data center;

(2) ensure that other electric public utility customers do not subsidize large data center customers and that all costs attributable to the electric public utility's large data center customers are allocated to those large data center customers, including, but not limited to, the costs of any infrastructure investment related to generation, transmission, distribution, or substation facilities incurred solely or primarily to serve that customer;

(3) ensure that other electric public utility customers are not at risk of paying for stranded costs associated with an electric public utility serving large data center customers;

(4) incentivize large data center customers to develop and utilize methods to increase energy efficiency, including through the use of technologies that capture and utilize the heat produced by large data center customers;

(5) incentivize large data center customers to bring their own new clean generation or energy storage to meet their energy needs;

(6) develop a framework for the tariff treatment of large data center customers served in whole or in part by co-located generation, to ensure that such customers pay an appropriate share of transmission, distribution, capacity, reliability, and public benefit costs attributable to their actual or potential use of the electric public utility system;

(7) identify the appropriate assessment method for electric public utility evaluation of any capacity resources procured by large data center customers, which shall be aligned with the accredited effective load carrying capability or equivalent performance metric recognized by the regional transmission organization for energy resources procured, and an appropriate adjustment factor recognized by the regional transmission organization for load reductions procured, both to be set at the time of procurement;

(8) require that each electric public utility submit Large Load Adjustments, Peak Shaving Adjustments, and customer peak load contribution to the regional transmission organization or any successor organization, which shall provide for inclusion of both the aggregate amount of anticipated new or expanded data center electrical load, as well as the aggregate amount of resources a large data center customer has procured to meet their energy needs;

(9) identify the appropriate parameters for demand-reduction trade programs each electric public utility shall make available to data center customers. The parameters shall: (a) delineate eligible categories of demand-reduction measures data center customers may take directly or contractually procure from third parties, such as incremental energy efficiency improvements, demand response enrollment, behind-the-meter energy storage, and managed electrification; (b) ensure sufficient protocols to demonstrate that the demand reductions are quantifiable, additional, coincident with the periods of system or local need, and measured using advanced metering infrastructure to read, and settle on an interval basis, the customer accounts associated with demand reduction measures; and (c) enable customers to export energy to the electric public utility system during peak hours and provide for the establishment of negative peak load contribution values for those exporting customers in a manner consistent with at least one tariff filed and approved by the Federal Energy Regulatory Commission;

(10) prioritize the interconnection of large data center customers who make binding commitments in fulfillment of the objectives stated in paragraphs (5) or (9) of this subsection;

(11) ensure the priority curtailment of large data center customers before residential customers, excluding designated critical load, under system emergencies. Any such curtailment shall be considered firm load shed;

(12) establish application and screening standards that require any prospective large data center customer of an electric public utility to disclose any substantially similar request for interconnection or electric service pending before any other utility, whether located in New Jersey or elsewhere, and to describe the relationship of those requests to the proposed project, so that the electric public utility may appropriately plan its system and avoid duplicative or stranded infrastructure investment, subject to reasonable protections for commercially sensitive information; and

(13) address any other challenges posed by timely interconnecting or serving large data center customers as identified by the board, including measures to ensure that no person evades the requirements of this section through corporate structuring, project segmentation, behind-the-meter configurations, off-tariff arrangements, or other similar arrangements.

c. No later than 180 days after the board issues an order establishing standards for the provision of electricity to large data center customers pursuant to subsection b. of this section, each electric public utility shall file a petition with the board for approval of a rate class and tariff for the provision of electricity to large data center customers.

d. All rates, terms, and conditions approved by the board for large data center customers shall reasonably protect other electric public utility customers against increased transmission and distribution costs resulting entirely or nearly entirely from serving large data center customers, <u>including, but not limited to, incremental costs calculated pursuant to subsection b. of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill),</u> and promote reduction of those costs by enhancing utilization of the electric grid. In carrying out the provisions of this section, the board shall require each electric public utility to:

(1) ensure that any large data center customer provides adequate financial guarantees that it will pay for at least 85 percent of the electricity supply it requests for a period of 10 years from when service commences or as otherwise determined in the board's standards;

(2) provide for the posting of deposits, financial security, or, for large data center customers with sufficiently high credit ratings, financial commitments, in respective forms approved by the board, sufficient to protect ratepayers against a material increase in rates should the large data center customer cease operations or take less

service than anticipated over the 10-year period beginning when electricity supply commences, and authorize the board to approve a stranded cost recovery mechanism applicable exclusively to the large data center customer class to recover any costs not otherwise covered by the deposits, financial security, or financial commitments;

(3) provide large data center customers whose load or procured capacity is to be included in a Large Load Adjustment, Peak Shaving Adjustment, or successor form of submittal to the regional transmission organization or any successor organization with an accounting of the quantities of their load or procured capacity to be included and an opportunity to correct any such data prior to submission. To the extent that a large data center customer's load has been included in a Large Load Adjustment submitted to the regional transmission organization or successor organization, the board shall ensure that payment by that large data center customer is proportionate to its share of the costs allocated by the regional transmission organization to the electric public utility of a Reliability Backstop Procurement auction or successor mechanism administered by the regional transmission organization. Any large data center customer's share of such costs shall be reduced by that customer's procurement of capacity resources, including any voluntary procurement under paragraph (4) of this subsection;

(4) develop a voluntary demand-reduction trade program through which data center customers may contract directly with a third party for, or otherwise fund, verified demand flexibility by other customers on the same electric public utility system. In developing the trade program, each utility shall: (a) ensure that no part of the cost of the transaction is recovered through rates established by the board for any other ratepayer and that any benefit in the form of the capacity reduction is allocated to the data center customer who has paid for the benefit, either by crediting a load serving entity undertaking the demand reduction and serving the data center customer, or by assigning the capacity benefit to the data center customer as an offset to its peak load contribution value as contemplated in paragraphs (3) and (6) of this subsection; (b) prohibit double-counting of demand reductions claimed for compliance under this subsection and demand reductions claimed under any other state or federal program, other than as contemplated in paragraphs (3) and (6) of this subsection; (c) design the program for compatibility with the load forecasting methods of the regional transmission organization, the Peak Shaving Adjustment of the regional transmission organization, or any similar mechanism used to reduce capacity needs, so that demand reductions verified under the program are reflected in the load forecast used by the regional transmission organization to procure capacity, including any capacity procured under a backstop auction or similar mechanism; and (d) ensure that any capacity that a large data center customer

procures through a demand-reduction program established pursuant to this subsection shall reduce the capacity obligations of the large data center customer in the service territory of the electric public utility under paragraphs (3) through (6) of this subsection, as applicable;

(5) require demand flexibility commitments by large data center customers, which shall include at least one of the following: (a) commitments to curtail or reduce load, excluding designated critical load, during system emergencies, transmission constraints, and peak demand periods as directed by the electric public utility or the regional transmission organization; (b) measurable, enforceable performance standards with financial penalties for non-performance as specified in the tariff; (c) participation in a voluntary demand-reduction program developed pursuant to paragraph (4) of this subsection; or (d) until such time as the board adopts standards for voluntary demand-reduction programs and approves a program for the respective electric public utility, other contractual flexibility commitments that the board determines reasonably meet the substantive requirements of paragraph (4) of this subsection;

(6) to the extent that a large data center customer has procured capacity resources, including but not limited to voluntary procurement as contemplated under paragraphs (3) or (4) of this subsection, ensure protection of that customer from advanced curtailment ahead of other firm load that may otherwise be required by a "connect and manage" or successor program administered by the regional transmission organization;

(7) require annual reporting of actual flexibility performance to the board;

(8) require any new large data center customer to pay the reasonable costs of any interconnection, system impact, and facilities studies undertaken by the electric public utility;

(9) assess the capacity value of total capacity resources procured by a large data center customer to meet its energy needs. The value of the capacity shall be determined at the time of the electric public utility's initial assessment and any future changes in determining the system, local, or other value of that capacity shall not affect any allocation of costs or curtailment for purposes of paragraphs (3) or (6) of this subsection; **[**and**]**

(10) implement other provisions that the board deems necessary to protect ratepayers, including transmission security agreements or similar measures that ensure new transmission costs resulting from large data center customers are allocated fairly; and

(11) comply with the requirements of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

e. The board shall expeditiously review, pursuant to the provisions of section 7 of P.L.1999, c.23 (C.48:3-55) and the rules or regulations adopted pursuant thereto, each petition submitted pursuant to this section, and shall approve the petition if the board

determines that it complies with the requirements of this section and all other applicable laws, rules, and regulations.

f. Commencing upon the board's approval of the tariff filed pursuant to subsection c. of this section, an electric public utility shall apply the tariff developed pursuant to this section, as approved by the board, to each large data center customer within the electric public utility's service area. The board shall have the authority to determine whether a customer qualifies as a large data center customer pursuant to this section. Any application for new or expanded service above the megawatt threshold established pursuant to paragraph (1) of subsection b. of this section that is pending before an electric public utility or the board on the effective date of the approved tariff shall be subject to the approved tariff upon the commencement of service, unless the board determines that application of the tariff would be inequitable.

g. Notwithstanding any other provision of this section to the contrary, a large data center approved by an electric public utility to receive service prior to the effective date of this act shall not be subject to the provisions of paragraphs (1), (2), and (8) of subsection d. of this section with respect to such service, but shall otherwise remain subject to the provisions of this section, including the requirements of paragraphs (3), (4), (5), (6), (7), and (9) of subsection d. of this section. With respect to a large data center approved by an electric public utility to receive service prior to the effective date of this act, the board may provide for a reasonable phase-in of the cost allocation required under paragraph (3) of subsection d. of this section. The exemption provided by this subsection shall not be diminished by the renewal, extension, or amendment of an agreement for the approved service, and shall not extend to any application for new or expanded service above the megawatt threshold established pursuant to paragraph (1) of subsection b. of this section. The exemption provided by this subsection shall apply only to the megawatts of service approved before the effective date of this act, and any service above that approved quantity, whether or not aggregated with the approved service pursuant to paragraph (1) of subsection b. of this section, shall be subject to the tariff developed pursuant to subsection c. of this section.

h. To the extent that the regional transmission organization establishes deadlines or processes for a capacity auction, including a backstop reliability auction, that precede the deadlines of subsections b. and c. of this section, nothing in this section shall prevent a bilateral or multilateral demand-reduction contract from being entered into, in substantially the form contemplated by paragraph (9) of subsection b. of this section and paragraphs (4) and (5) of subsection d. of this section, and filed with the board. The board shall accept the contract unless the board finds its terms are inconsistent with the substantive provisions of paragraph (9) of

subsection b. of this section and paragraphs (4) and (5) of subsection d. of this section, and, upon acceptance, the demand reduction shall be credited to the electric public utility and data center in the same fashion as contemplated by a transaction completed through a voluntary demand-reduction trade program under paragraph (4) of subsection d. of this section, including credit as a Peak Shaving Adjustment.

i. Any rate or service agreement entered into between an electric public utility and a large data center customer, whether pursuant to a tariff approved under this section or pursuant to section 3 of P.L.1995, c.180 (C.48:2-21.26) or any other authority, shall satisfy the substantive requirements of subsection d. of this section and of section 2 of P.L. , c. (C.) (pending before the Legislature as this bill). The board shall not approve, and shall not allow to take effect, any agreement under section 3 of P.L.1995, c.180 (C.48:2-21.26) or successor authority that materially diminishes the protections established by this section or by section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

j. Nothing in this section is intended to, or shall be construed to, affect or displace the exclusive jurisdiction of the Federal Energy Regulatory Commission over wholesale sales of electric energy or capacity, or over rates, terms, and conditions of electric transmission service, under the "Federal Power Act" (16. U.S.C. s.791 et seq.).

(cf: P.L.2026, c.32, s.1)

3. This act shall take effect immediately.

STATEMENT

This bill, to be known as the "Ratepayer-Indifference Act," establishes certain requirements for the provision of electric public utility service to certain data centers. Specifically, the bill requires the Board of Public Utilities (board) to determine the cost associated with an electric public utility's provision of service to a large data center (incremental cost) by comparing the difference between an electric public utility's baseline system costs and the actual or projected system costs. Under the bill, "baseline system cost" means the cost borne by an electric public utility, whether directly or indirectly, to operate its electric transmission and distribution system and provide service to its customer base without the additional demand presented by a large data center; and "actual or projected system cost" means, in relevant part, the cost borne by an electric public utility, whether directly or indirectly, to operate its electric transmission and distribution system and provide service to its customer base with the additional demand presented by a large

data center. When determining the incremental cost associated with a large data center, the bill authorizes the board to credit the large data center the cumulative value of certain resources outlined in the bill provided that those resources are measurable, verifiable, additional, deliverable to the electric transmission and distribution system of the affected electric public utility, available during periods of system need, and not already in service of another requirement under State law.

In addition, the bill prohibits the board from approving any agreement or proposal for the provision of new electric public utility service, or the expansion of existing electric public utility service, to a large data center unless the large data center proves to the board that the large data center has a plan to pay any incremental cost associated with the large data center and to procure sufficient resources, as outlined in the bill, to meet the large data center's electricity demand. To effectuate this provision, the bill requires each large data center, upon request, to submit a plan to the board containing such information for the board's approval.

The bill also prohibits an electric public utility from recovering any incremental cost associated with a large data center through the rates and other charges assessed to its non-large data center customers.

Finally, the bill requires the board to submit an annual report to the Governor and the Legislature containing certain information, as outlined in the bill, related to the provision of electric public utility service to a large data center.