



GREEN ENERGY INSTITUTE

Lewis & Clark Law School

Chair Lively, Vice Chairs Levy and Gamba, and members of the House Committee on Climate, Energy, and Environment:

Thank you for the opportunity to provide testimony in support of House Bill 3546, the POWER Act.

The Public Utility Commission recently stated that “it is necessary to act promptly to address proactively the unique risks raised by the sheer scale of new, very large customers seeking to connect to the utility system.”¹ Data centers use tremendous amounts of energy, often demanding power equivalent to a small city. These significant additions to the amount of power utilities must provide strains the system upon which everyone relies. A utility often needs to build facilities designed specifically to serve a data center before it can connect to the grid. The utility often must also build and upgrade transmission resources to maintain the reliability of the grid. And because data centers use energy equivalent to tens of thousands of customers, fluctuations in their usage require utilities to compensate rapidly in ways that incur additional costs. Absent adequate protections, these costs, incurred solely to serve new and existing data centers, are spread to all of a utility’s customers.

HB 3546 is an attempt to solve this problem of inequitable cost shifting by pursuing two interconnected goals: procedural certainty and substantive fairness.

HB 3546 provides procedural certainty by declaring data centers over 20 MW to be their own customer class and granting the PUC the power to proactively regulate that class. The need for HB 3546 was apparent this Tuesday, when the Commission considered a proposal by PGE to address some of the risks associated with new data centers. Stakeholders and PUC Staff had pointed out that PGE’s proposal failed to adequately protect customers from the cost-based risks data centers present, despite the fact that PGE had received a series of extensions that delayed the proceeding by nearly a year. But because of the nature of the procedural rules, the PUC was largely unable to force PGE to implement a more protective policy without exposing customers to even greater risks in the short term. Although the PUC technically accepted the tariff, they did so on the condition that any contracts signed pursuant to the tariff be left entirely open to change, pending the outcome of a contested case to litigate the terms of the tariff, as well as additional issues related to transmission costs. Somewhat absurdly, after a year of delays in protecting customers, the PUC’s only option to ensure adequate protections were put in place was to essentially delay the proceedings for what could be another nine months. A different set of limited protections were approved for PacifiCorp customers in its most recent rate case, an entirely different procedural track than the one being utilized by PGE. This means that, under the current system, otherwise identical customers are exposed to entirely different risk profiles—constituting both a difference of degree and a difference of kind—dependent solely on which utility’s territory in which they happen to work and live. HB 3546 would allow the PUC to regain control of the regulatory space and establish sound policies that apply to all investor-owned utilities.

¹ *In the Matter of In the Matter of PacifiCorp dba Pacific Power, Request for a General Rate Revision*, Docket UE 433, Order 24-447, at 99 (Dec. 19, 2024).

The remainder of HB 3546 delivers substantive fairness for electric customers. By requiring that data centers be assigned the costs they cause a utility to incur, including costs for transmission, distribution, energy, capacity, and related costs, as well as the costs incurred to respond to the fluctuations in a data center's demand, HB 3546 will help ensure that other utility customers are not forced to bear the burden of when a new data center is built in their backyard. The protections will benefit not just residential customers, but commercial and industrial customers as well. The businesses that actually employ Oregonians in the long term will suffer if they are forced to help pay the costs associated with data center growth in the form of higher electrical rates. These data centers are not mom-and-pop shops: they are run by the largest, richest corporations in the world, companies that can afford to pay their fair share of the costs they impose on Oregon's grid.

Other large, industrial loads will also benefit. Under the current system, the protections PGE and PacifiCorp are contemplating apply to all large loads over a given threshold, even though different types of large loads present different types of risks for a utility's other customers. For example, the risk of stranded assets associated with traditional large industrial loads is relatively small as compared to data centers, because traditional large loads require massive capital and infrastructural expenditures. These large loads can take several years just to get built, and then are incredibly difficult to move once established. Data centers, on the other hand can be built in under two years and don't generally require much heavy industrial equipment, raising the threat that they may leave a utility's service territory after a utility has made significant investments to connect the data center to the grid. Segmenting data centers into their own customer class will ensure that other large loads that do not present the same risks to Oregon's grid are allowed to be regulated in the same manner that they have been for a century. As we have already seen with PGE's recent tariff filing discussed above, when utilities have to create special terms to protect their customers from the risks of data centers, those special terms are incongruous with the nature of other large load businesses. Thus, HB 3546 prevents "throwing the baby out with the bath water" by ensuring that other large loads that do not threaten the stability of Oregon's grids or the rates of other customers are not forced to comply with provisions designed for businesses of an entirely different character.

Thus, HB 3546 allows the PUC to fulfill its traditional regulatory role: allocating the costs of electric service to customers who incur those costs, protecting customers from unaffordable rates, and protecting customers from exposure to the risk of rate increases and poorer electrical service.

Thank you.

Cole Souder
Staff Attorney
Green Energy Institute at Lewis & Clark Law School