

Addressing Common Cost-Shifting Concerns

Recent commentary has raised concerns that rapid data center growth may shift costs onto existing ratepayers, in particular a study from the Harvard Law School in March 2025.¹⁴ These concerns generally fall into five categories: confidential contracts, transmission cost allocation, stranded asset risk, allocator mechanics under reduced load, and co-location with existing generation. Each represents a potential risk pathway but a closer review suggests that these concerns may be overstated and should be evaluated in the context of existing regulatory oversight and customer protections.

1. Confidential or “Secret” Contracts

- + **Concern:** Confidential large load contracts conceal subsidies or wealth transfers.
- + **Context:** While transparency is important, confidentiality does not imply lack of oversight. Large load contracts are typically filed with and reviewed by regulators, even when commercially sensitive terms are protected from public disclosure. Commissions evaluate whether revenues meet or exceed marginal cost, whether embedded cost contributions are sufficient, and whether adequate risk mitigation provisions are included. The existence of confidential terms may limit public visibility, but it does not eliminate regulatory scrutiny.

2. Federal and State Transmission Allocation Differences

- + **Concern:** Differences between federal (FERC/RTO) transmission allocation rules and state-level retail allocation methods may allow transmission costs driven by large loads to impact residential bills.
- + **Context:** Transmission cost allocation is inherently regional and often based on shared-benefit principles rather than strict one-to-one cost causation. This is not unique to data centers; it reflects long-standing market design choices in organized markets.
- + **Concern:** State allocation formulas can become outdated if not updated regularly, particularly under rapid load growth.
- + **Context:** This is a governance issue related to allocator updates and regulatory lag, not proof of systematic current or future cost shifting. Periodic updates to coincident peak allocators and cost-of-service studies are standard tools used to address this risk, and should continue to occur, especially more frequently to match the pace and scale of recent load growth.¹⁵

3. Stranded Transmission or Generation Investments

- + **Concern:** Utilities could build transmission or generation in anticipation of load growth that does not materialize or underperforms, leaving ratepayers exposed to stranded costs.
- + **Context:** This is a classic forecasting risk and not unique to data centers.¹⁶ The key question is whether utilities require binding financial commitments before making major capital investments. Modern large load tariffs frequently include deposits, collateral, minimum demand obligations, long-term service agreements, and exit fees specifically designed to prevent stranded asset exposure if a project fails to materialize, exits early, or reduces load. Where such provisions are in place, stranded cost risk is significantly reduced.

4. Co-Location with Existing Power Plants

- + **Concern:** Co-locating data centers with existing nuclear plants could withdraw low-cost generation from the organized market, increasing wholesale energy and capacity prices, particularly in PJM.
- + **Context:** This is primarily a wholesale market design issue rather than a retail cost-of-service issue. If generation that previously cleared into the market is instead dedicated to a single co-located load, market supply could tighten. However, such outcomes depend on scale, participation rules, and how market operators and FERC respond. Market rule adjustments, capacity accreditation policies, and interconnection standards fall within federal jurisdiction and are subject to ongoing oversight. The existence of this theoretical pathway does not itself demonstrate retail subsidy but highlights the importance of coordinated federal and state regulation.

While these concerns reflect real structural risks, utilities and regulators have developed and are using a robust toolkit to manage them which is outlined in detail in the next section.

¹⁴ Martin, E., & Peskoe, A. (2025). *Extracting profits from the public: How utility ratepayers are paying for Big Tech's power* (Report). Harvard Environmental Law Program. <https://eelp.law.harvard.edu/wp-content/uploads/2025/03/Harvard-ELI-Extracting-Profits-from-the-Public.pdf>

¹⁵ Joint Legislative Audit and Review Commission. (2024). *Virginia data center study: Electric infrastructure and customer rate impacts* (Final report, December 9, 2024). https://jlarc.virginia.gov/pdfs/presentations/JLARC%20Virginia%20Data%20Center%20Study_FINAL_12-09-2024.pdf

¹⁶ NBC4i. (2025, June 5). *Intel's delay is costing AEP Ohio, but company says price hikes are unrelated*. <https://www.nbc4i.com/intel-in-ohio/intels-delay-is-costing-aep-ohio-but-company-says-price-hikes-are-unrelated/>