The Data Center Fairness Fee Act of 2026
Office of Rep. Paul Tonko (NY-20)
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Background

In recent years, Big Tech companies have enjoyed soaring profits based on the promise of artificial intelligence. In 2025 alone, just a handful of companies responsible for building large-scale data centers collectively funded hundreds of billions of dollars in share buybacks and dividends. While shareholders are benefitting tremendously from the race to develop AI, a much larger number of Americans are being left shouldering part of the costs to power its enabling infrastructure.

According to a 2024 Lawrence Berkeley National Laboratory report, data center load growth has tripled over the past decade and is projected to double or triple again by 2028. These new and forecasted loads are resulting in cost increases for residential electricity customers. Several regional grid operators promote reliability by maintaining a capacity market, which provides payments to generators to ensure a commitment to supply electricity to meet future peak demand. According to PJM's independent market monitor, existing and forecasted data center load resulted in $16.6 billion in capacity auction revenue in 2024, which will be paid by all ratepayers in the region. The 2024 capacity auction has led to double-digit electric bill increases for some utility customers in PJM. In addition to capacity market payments, the Union of Concerned Scientists found that in 2024 customers of seven utilities located in PJM had more than $4.3 billion passed onto them for transmission projects to connect new data center loads.

Americans' struggles with energy affordability are not new. According to the Energy Information Administration, in 2020, 34 million U.S. households (27% of all U.S. households) reported difficulty paying energy bills or keeping their homes at unsafe temperatures because of energy cost concerns. Each month millions of Americans choose to forgo food or medicine to pay energy bills. Despite President Trump's campaign promise to cut energy costs in half within a year of his second inauguration, electricity bills have increased by 18% since he took office and are expected to continue to increase significantly in the years ahead.

Low-income Americans' struggles with energy affordability should not be exacerbated by data centers. The Data Center Fairness Fee Act would require EPA to impose a charge on the owners of data centers based on electricity consumption. The revenues raised would be made available to State and Tribal Governments to fund energy affordability programs and electric grid upgrades to benefit residential utility customers. Lawrence Berkeley National Laboratory has estimated data center electricity consumption will grow to 325-580 terawatt-hours annually by 2028, so even a small, $0.01 per kilowatt-hour charge would raise significant funding to supplement affordability and infrastructure investments to unburden residential ratepayers.

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Section-by-Section Summary

Section 1 establishes the short title for the bill.

Section 2 amends title I of the Clean Air Act to add a new Section 139.

Section 139 includes the following:

Subsection (a) requires EPA, beginning for calendar year 2027, to impose and collect a charge on the owners or operators of applicable facilities based on their total annual electricity consumption. Applicable facilities are defined as data centers and cryptomining facilities with more than 50 megawatts of installed information technology nameplate capacity. Charge amounts will be equal to $0.01 per kilowatt-hour of electricity consumed, including from generating assets located behind the power meter.

Subsection (b) requires EPA, beginning for calendar year 2028, to impose and collect an additional charge on the owners or operators of applicable facilities that consume electricity with an average carbon intensity greater than 0.10 metric tons of greenhouse gas emissions, measured in CO2e, per megawatt-hour of electricity consumed. The charge amount will be equal to $0.05 per kilogram of greenhouse gas emissions, measured in CO2e, associated with electricity consumed.

Subsection (c) requires EPA to issue regulations within 1 year to require monitoring, reporting, and recordkeeping by owners and operators of applicable facilities, which shall include annual reporting on each facility's electricity consumption, water consumption, greenhouse gas emissions, and other metrics determined appropriate.

Subsection (d) requires charges collected by EPA to be allocated to States and Indian Tribes based on the Department of Energy formula to allocate funding under the State Energy Program. States and Indian Tribes may use funding on the Low-Income Home Energy Assistance Program, the Weatherization Assistance Program, home energy rebate programs established under the Inflation Reduction Act, and other programs that reduce peak electricity demand, improve energy efficiency, or reduce residential utility bills.

Subsection (e) provides definitions for this section.