Public Power & Private Use

FERC is protecting customers in large-load interconnection, while public power seeks reform from Treasury on private use

Protecting
Serving
Growing

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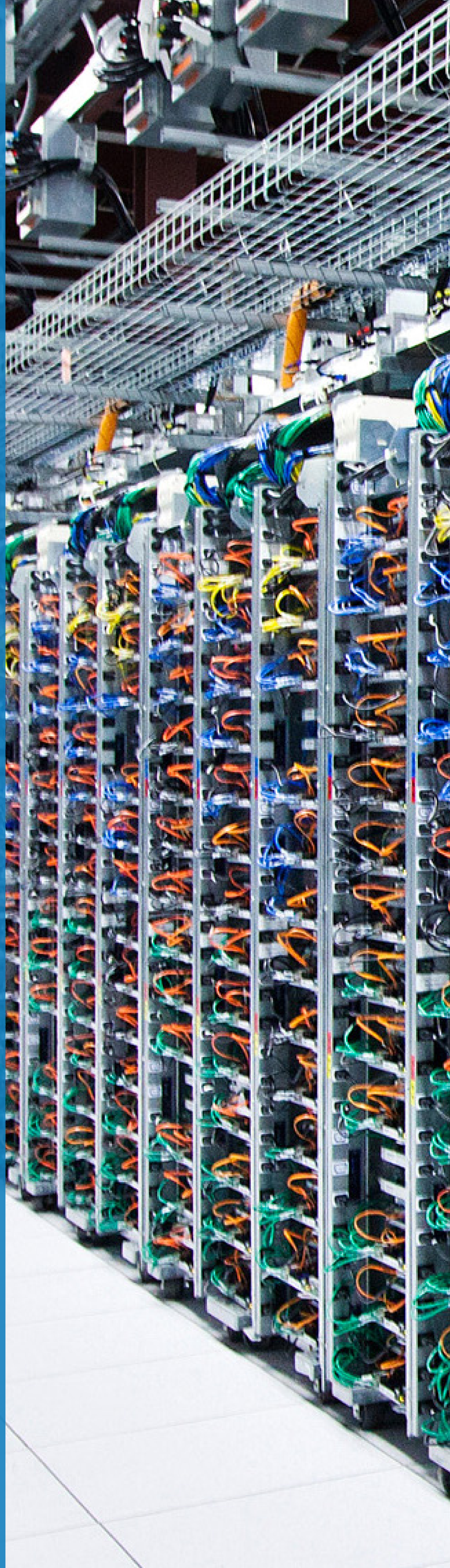
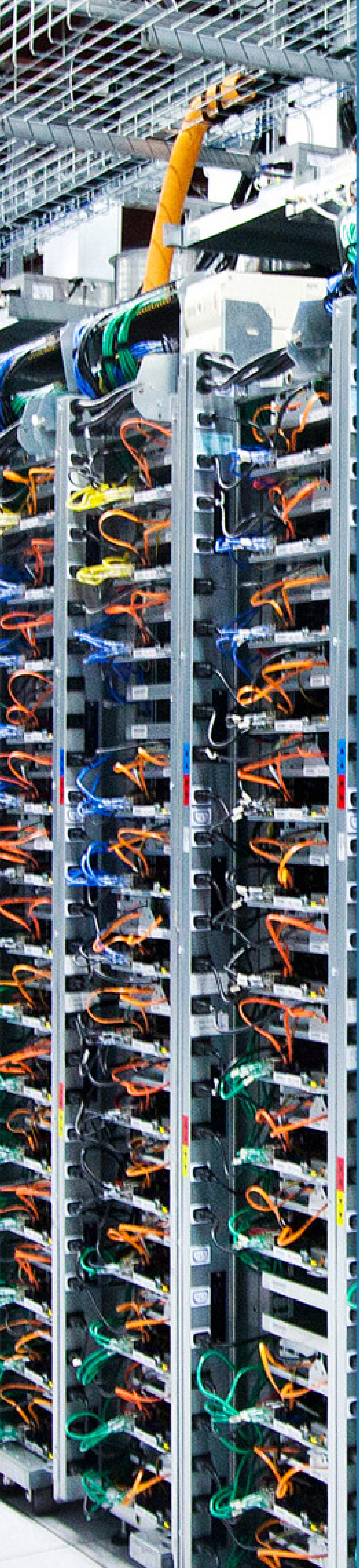
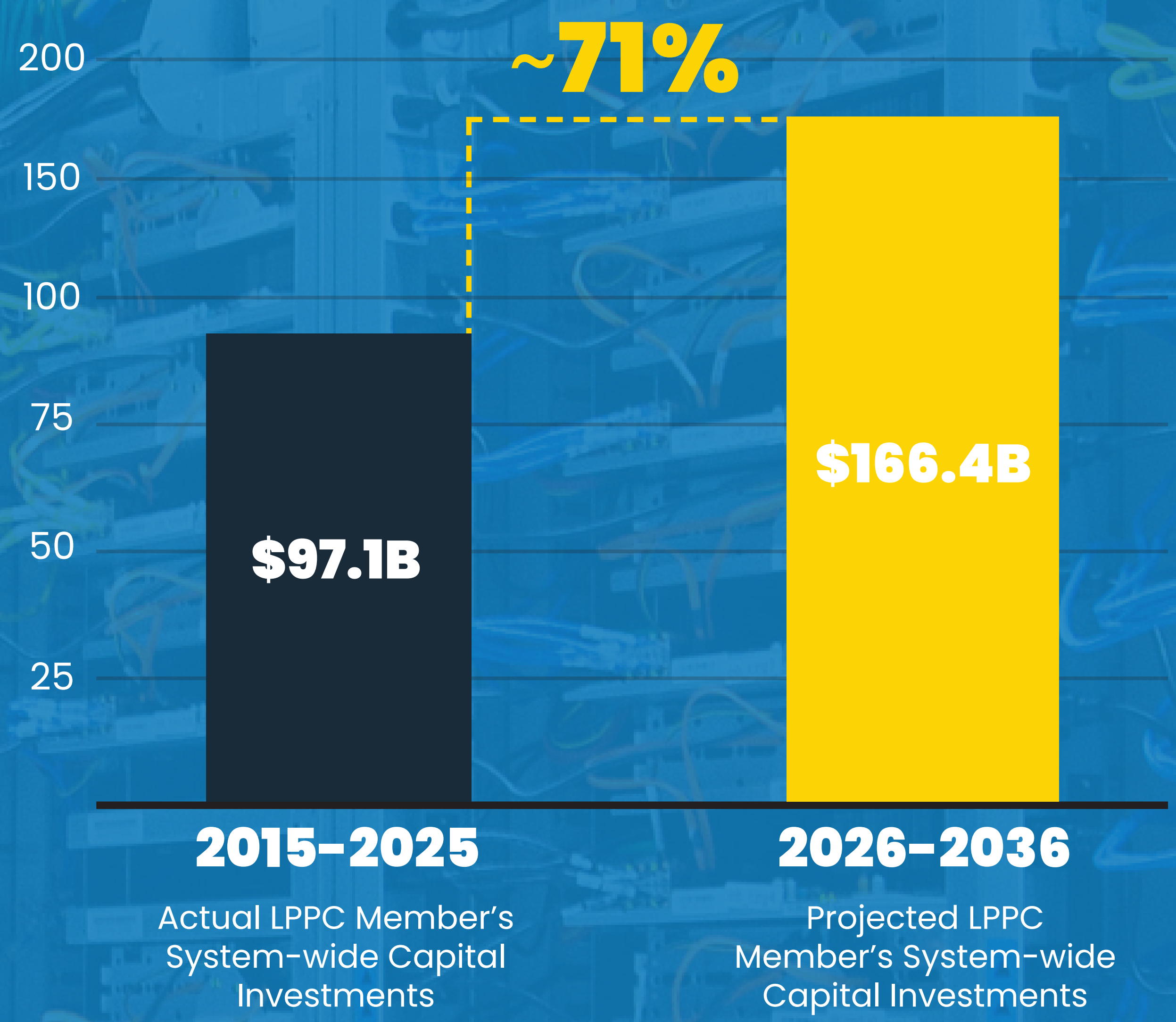
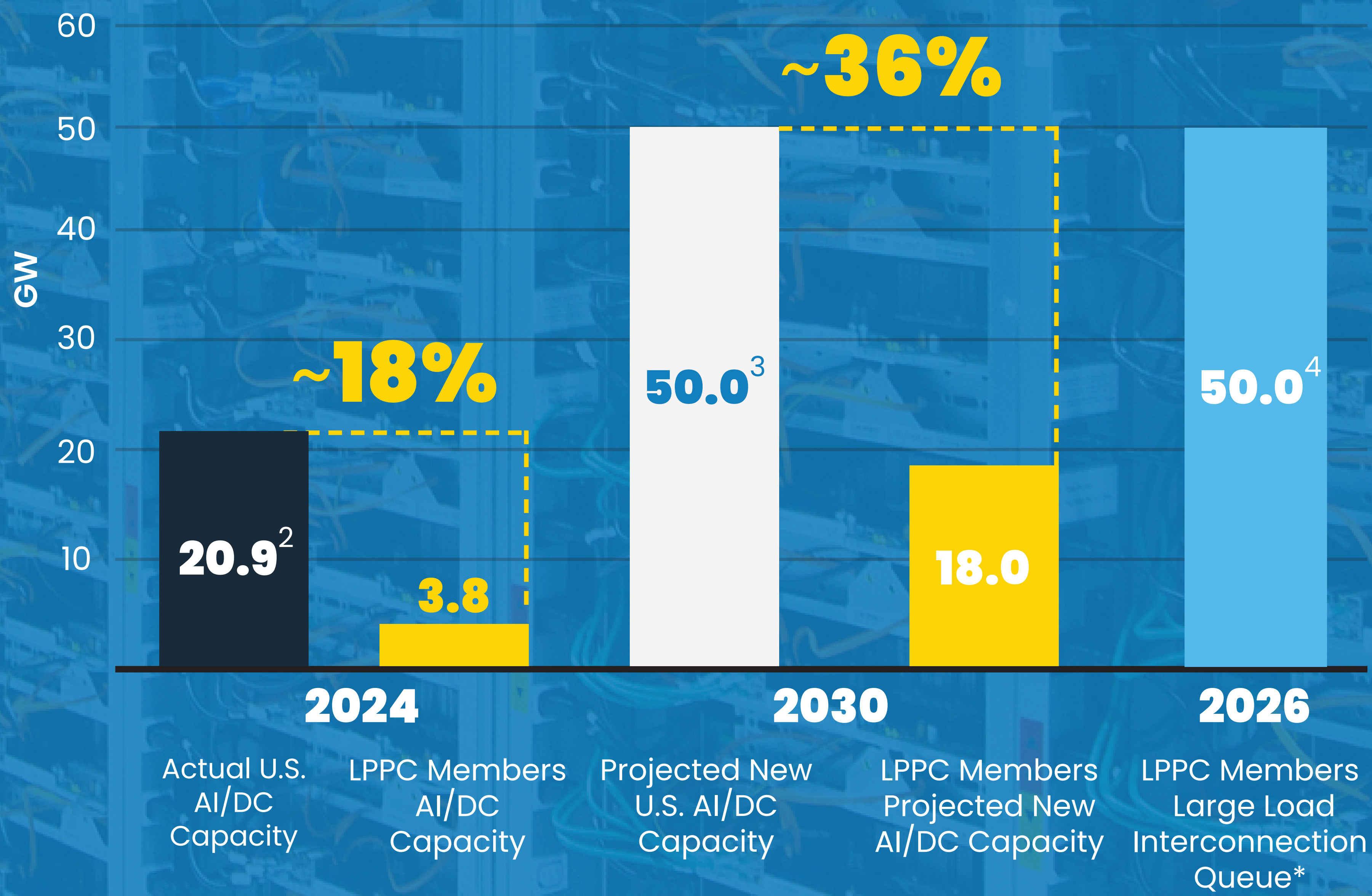




LPPC Member Capital Expenditure[1]



Current/Projected AI, Data Center, & Large Load Interconnections

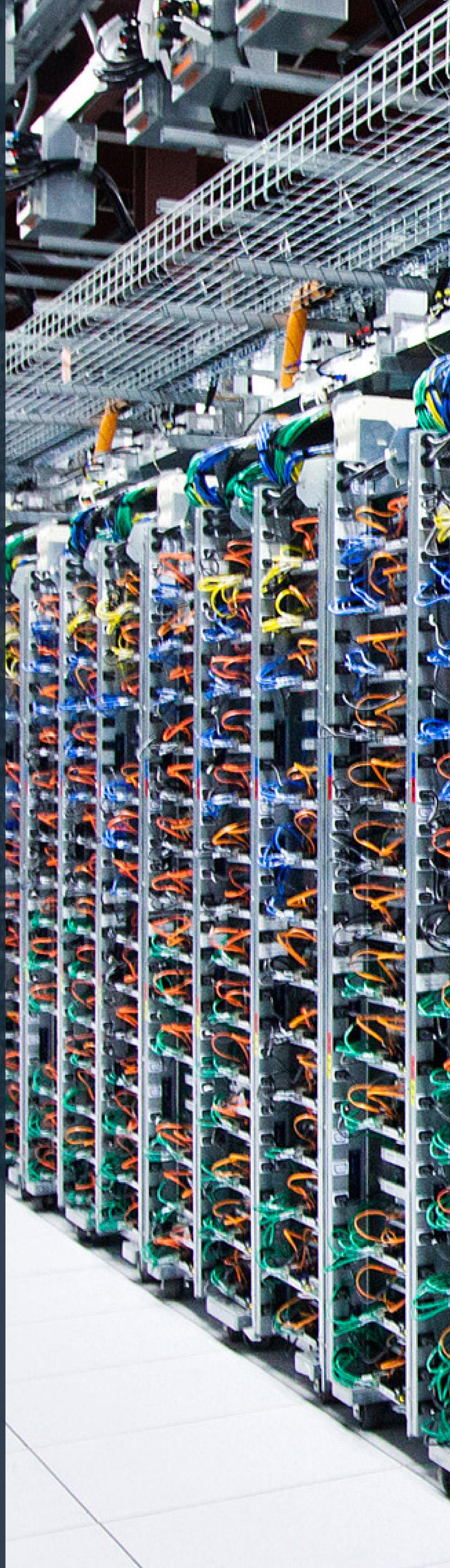


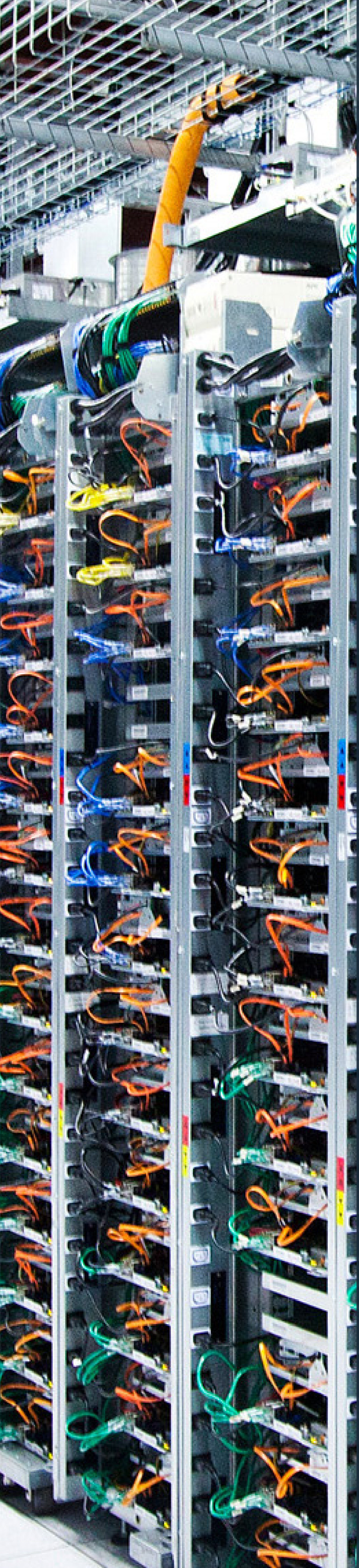
Committed projects and speculative, early-stage inquiries including AI/Data Center, Advanced, and Industrial Manufacturing

The Problem Explained

Treasury's private business use regulations, issued under Section 141 of the Internal Revenue Code, treat retail customer contracts with minimum-demand features as private business use if the contract term exceeds three years.

That limit was created by regulation, not by statute, and it no longer fits today's market. The private business use rule only impacts public power utilities, which power ~18% of current AI/Data Center capacity and a projected ~36% of new US AI/Data Center capacity by 2030.





> *We are setting the stage for a resilient, reliable, and forward-thinking grid that empowers communities and safeguards consumers by transforming the way large energy users access the grid."*
>
> *- FERC Chairman Laura V. Swett*

FERC's New Show Cause Orders

FERC took important steps to support large load interconnection while protecting ratepayers by issuing tailored show cause orders to all six RTO/ISOs and their transmission owners.

FERC plans to codify ratepayer protections into large load interconnection planning, aligning with the Trump Administration and DOE's stated priorities and a large number of state public utility commissions that have implemented these protections into their ratemakings on large loads.

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What is LPPC Asking Treasury for?

1 **Add a Qualified Large Retail Customer Exception**

Add a new exception under Treasury Regulation § 1.141-7(f) so that an output contract with a "qualified large retail customer" is not treated as private business use. The exception covers customers expected to exceed 20 megawatts or 10 percent of the utility's peak demand within seven years, allows a contract term of up to 20 years including renewals, and requires cost-of-service-based rates and that no facility be dedicated to or built for the customer.

2 **Issue Guidance for Acquisition of Existing Generation**

Adopt new Treasury Regulation § 1.141-11 to clarify IRC § 141(d) acquisitions of nongovernmental output property, including (i) a conforming rule treating output contracts that do not result in private business use under § 1.141-7(f) as sales within the qualified service/annexed area for § 141(d)(3), and (ii) a compliance standard based on reasonable expectations at issuance or a five-year historic usage safe harbor.

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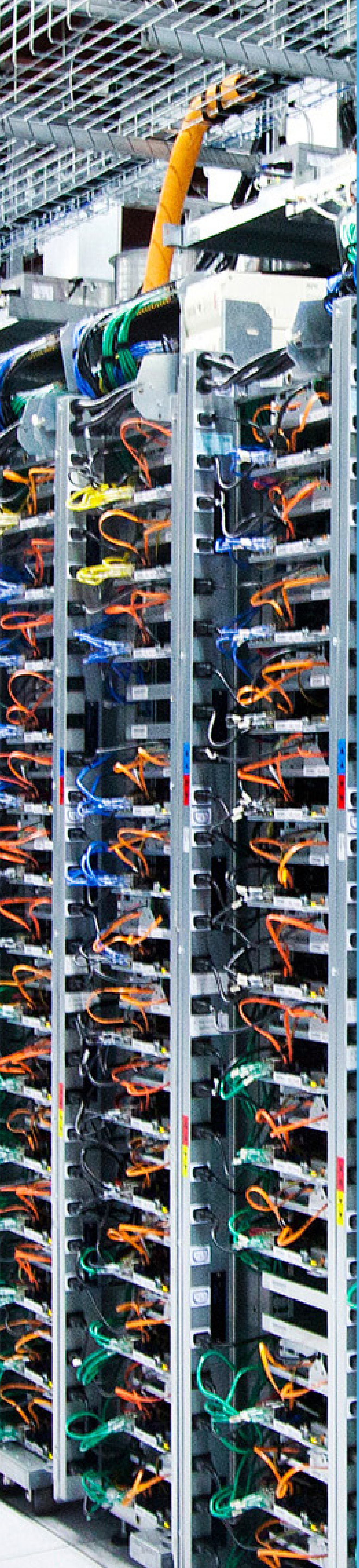

> ***"we're either going to get reforms of regulation at Treasury or at some point our utilities are going to have to say, I'm sorry I can't build for you."***
>
> *-LPPC President, Tom Falcone*

The Cost of Inaction

Without private use reform, LPPC member utilities face two unacceptable choices:

Option 1 — **Assume extreme risk on behalf of existing customers by building major new infrastructure without durable commitments from new customers that match the investment horizon, or**

Option 2 — **Decline large-load interconnection requests, constraining the local economy and the nation's ability to power AI, data centers, and advanced manufacturing at the scale and speed now being demanded.**

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Sources:

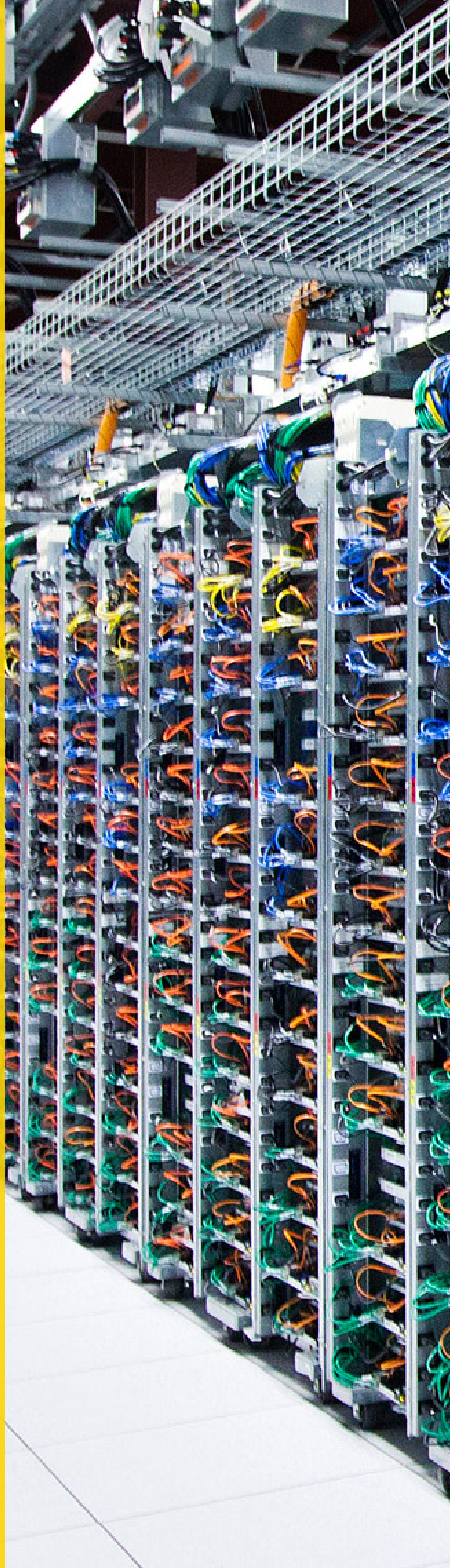
[1] LPPC Member Current & Projected Large-Load Capacity | Capital Investment and Large Load Growth Survey, November 2025

[2] 2024 National AI/Data Center Capacity | Energy & AI, World Energy Outlook Special Report, International Energy Agency, April 2025

[3] 2030 National Projected AI/Data Center Load Growth | Department of Energy Resource Adequacy Report, July 2025

[4] LPPC Member Current Interconnection Queue | Large Load Projects and Tariffs Survey, March 2026

Learn more at lppc.org/private-use



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