UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Interconnection of Large Loads to the Interstate Transmission System	**Docket No. RM26-4-000**

COMMENTS OF TRAVIS FISHER OF THE CATO INSTITUTE

I appreciate the opportunity to provide comments following the October 23, 2025 proposed advance notice of proposed rulemaking (proposed ANOPR)[1] submitted by the Secretary of Energy (Secretary) pursuant to section 403 of the Department of Energy Organization Act[2] to the Federal Energy Regulatory Commission (FERC or Commission). I support the Commission's consideration of the Secretary's efforts to "ensure all Americans and domestic industries have access to affordable, reliable, and secure electricity… in a timely, orderly, and non-discriminatory manner."[3] Specifically, I urge the Commission to enable Consumer Regulated Electricity (CRE), which offers a parallel path to timely, orderly, and non-discriminatory access to electricity for large loads.

I. Interest in this Proceeding

The Cato Institute is a public policy research organization dedicated to the principles of individual liberty, limited government, free markets, and peace. At Cato, I am the Director of Energy and Environmental Policy Studies, and my research focuses on the economics and reliability of electricity, the role of free markets in improving the availability and affordability of energy and natural resources, and environmental regulations that impact the energy sector. FERC has an opportunity to embrace free-market principles as part of this docket and others, and I am committed to ensuring that the Commission uses its statutory authorities to improve the lives of American consumers by unleashing market forces to the maximum extent possible.

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[1] See https://www.energy.gov/sites/default/files/2025-10/403%20Large%20Loads%20Letter.pdf

[2] 42 U.S.C. § 7173. https://www.law.cornell.edu/uscode/text/42/7173

[3] Secretary's October 23, 2025 letter at 1. See https://www.energy.gov/sites/default/files/2025-10/403%20Large%20Loads%20Letter.pdf

I also serve as a volunteer advisor to Advocates for Consumer Regulated Electricity (A4CRE). As an informal association, A4CRE has a vested interest in commenting at FERC due to the overlap between Commission policies and the operations of emerging CRE utilities. While CRE utilities will operate independently of existing FERC-jurisdictional electricity systems, it is unclear whether reliability standards created by the North American Electric Reliability Corporation (NERC) and approved and enforced by FERC could impact their operations. By participating in FERC proceedings, A4CRE can help shape policies that preserve the flexibility and independence essential to the CRE model. Additionally, engaging with FERC provides an opportunity to highlight the role of CRE utilities in advancing private-sector investment, innovation, and competition, which align with the broader goals outlined in the proposed ANOPR.

II. Benefits of Consumer Regulated Electricity

CRE would allow for new, large loads to enter arrangements with new suppliers on off-grid networks without triggering economic oversight from state regulatory authorities (commonly titled public utilities commissions or public service commissions). The key advantage of CRE lies in eliminating the delays and regulatory risks associated with federal and state approval processes by ensuring there is no physical connection to electricity systems regulated by FERC or state commissions.[4]

CRE represents a new approach to address the rapid growth in energy demand driven by large-scale consumers such as manufacturing facilities or data centers. CRE utilities would be entirely new entities that operate separately from traditional utilities and regulatory oversight. Independence would allow them to develop innovative electricity infrastructure at an accelerated pace, offering a crucial advantage in meeting the energy needs of large customers whose development timelines far outpace those of conventional utilities.

On a longer time horizon, the most significant benefit of CRE utilities could be their capacity to drive innovation that will spill over to regulated systems. Free from the constraints of traditional monopoly regulations, CRE utilities can adopt new technologies and policies at a pace that matches the evolving needs of industries like artificial intelligence and cloud computing.

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[4] See https://www.cato.org/blog/what-would-consumer-regulated-electricity-look

This agility not only benefits the large consumers they serve but also creates an opportunity to test and refine innovations that could later benefit the regulated sector. By leveraging private investment, CRE utilities can function as a low-risk testing ground for new approaches, ensuring taxpayers and existing ratepayers are not burdened by the financial and reliability risks inherent in experimental projects.

CRE utilities would offer economic and reliability benefits to the broader community by reducing the strain on regulated utilities and protecting existing ratepayers from the financial risks of overspending on infrastructure upgrades. Every data center or other large load facility served by a CRE utility represents a reduction in stress and risk on the existing grid and a potential decrease in costs for ratepayers served by incumbent utilities. Moreover, the creation of tailored, rapidly deployable electricity supply can serve as a powerful economic development tool, drawing investment, creating jobs, and contributing billions to a state's economy without imposing costs on taxpayers or ratepayers.

III. Comment

CRE could be implemented exclusively by state legislative action.[5] However, some ambiguities remain regarding federal jurisdiction. As states move forward with CRE, the Commission should assess what changes to its regulations might be necessary to ensure CRE utilities do not fall under the Commission's jurisdiction. A related set of comments to the Department of Energy (DOE) is included below as Appendix A and outlines potential DOE actions that would support CRE.

I urge the Commission to consider clarifying that any physically islanded network—with no connection whatsoever to the broader grid—is exempt from Commission oversight and NERC standards. For example, by my reading of Section 215 of the Federal Power Act, some CRE utilities could be deemed (inappropriately) to be part of the bulk power system based on the facility's (1) economic significance, (2) potential use of other connected networks, including fuel supply chains, or (3) electric equipment operating at high voltages.

The reliability of the bulk power system is best served by allowing FERC and NERC to focus on the interconnected regions and networks that serve residential customers. Commission

[5] See https://alec.org/model-policy/act-to-allow-for-consumer-regulated-electric-utilities/ and Appendix C

oversight over CRE utilities would be unnecessary and represent a departure from the intent of Section 215 of the Federal Power Act, which was to prevent wide-scale, cascading outages on the bulk power system like the one experienced in August 2003 in the Northeast United States. For the foregoing reasons, physically islanded networks as envisioned in the CRE concept should be excluded from FERC and NERC oversight.

IV. Conclusion

I thank the Commission for its attention to the important policy questions raised in this proceeding, and I look forward to working with FERC and stakeholders to offer a new way to meet growing electricity demands equitably and with no adverse impacts on residential customers.

Respectfully Submitted,

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Dated: November 21, 2025

Appendix A: Response to DOE Request for Information: "Accelerating Speed to Power / Winning the Artificial Intelligence Race"

Submitted by:
Advocates for Consumer Regulated Electricity[6]
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Submitted to:
U.S. Department of Energy
Email: SpeedtoPowerRFI@hq.doe.gov

Date: November 21, 2025

Executive Summary

The United States faces a surge in large-load electricity demand—from AI, data centers, and manufacturing—that is overwhelming traditional regulated utilities, the Regional Transmission Operators and Independent System Operators (collectively "RTOs"), and the interconnection queues that serve them. Yet solutions need not be costly to taxpayers or ratepayers, nor be risky or slow.

Consumer Regulated Electricity (CRE) is a permissionless model that allows new, privately financed, islanded electric utilities to serve new industrial and datacenter loads without relying on taxpayer funds, existing ratepayers, congested transmission systems, or fragile grids. CRE utilities are regulated by their customers and competition rather than by public utility commissions; they interconnect only their own generation and load and thus are not "public utilities" in that they do not add energy to the grid nor pull energy from it. In turn, CRE utilities cannot shift costs to existing ratepayers.

The benefits of CRE are many and will be realized by many. By removing state utility regulation, CRE dramatically shortens project timelines, shifts financial risk from taxpayers and existing ratepayers to private investors, and unleashes market-driven innovation in technology, design, and operations. By employing the utility model of having many customers, CRE utilities can approach the cost, reliability, and environmental advantages of larger systems while easing cost and reliability challenges for existing grids and their consumers. In addition, their independence enhances U.S. competitiveness for new investment and offers greater security by being physically and digitally isolated from broader grid vulnerabilities. Perhaps most importantly, because CRE utilities will start from a clean sheet of paper, they will be free to build 21st century grids by experimenting with technologies, processes, operations, and their product

[6] Advocates for Consumer Regulated Electricity is an informal association. You can learn more about us at https://www.advocates4cre.org or https://www.linkedin.com/company/advocates-for-consumer-regulated-electricity/.

and service offerings. Given that much of the sector was developed many decades ago, the potential for "shale fracking like" breakthroughs in the electricity sector are great. The likelihood of such breakthroughs increases with the number of developers all scrambling to offer the best option to consumers by out-competing others.

DOE can use its existing authorities—without new legislation—to enable CRE by issuing clarifying guidance and model policy templates that:

- Clarify that CRE utilities are *non-jurisdictional* to FERC and NERC because they are not interconnected to the bulk electric system.
- Encourage state and local regulators to recognize CRE as an innovative pathway for new load service.

This approach is:

- Fast: Can be implemented by DOE guidance within months.
- Cost-Free: Requires no federal funding, loans, or other subsidies.
- Risk-Free: Poses no financial risk to taxpayers or existing ratepayers. Poses no reliability risk to existing utilities or RTOs.
- Scalable: Encourages private capital to build new generation and micro-grids to serve multi-GW load growth.
- Innovative: Just like with the oil and gas sector, more entrepreneurs will produce more innovative breakthroughs than our current "roomfuls of experts" approach.

CRE expands national capacity while relieving stress on existing grids—exactly the "Speed to Power" outcome DOE seeks.

1. Respondent Information

Organization: Advocates for Consumer Regulated Electricity
POC: Glen Lyons, Founder
Expertise: Electricity policy and regulatory innovation
Role: Policy advocacy organization promoting market-based electricity solutions for new demand growth in the U.S.

2. Large-Scale Projects (RFI Question 1)

CRE utilities do not exist yet because of barriers created by state laws. New Hampshire became the first state to legalize CRE on August 1 when the governor signed it into law.[7] DOE can accelerate other states passing CRE legislation and their subsequent emergence through policy

[7] https://www.wsj.com/opinion/new-hampshire-sparks-a-revolution-in-electricity-supply-dab10a8d?st=nphtNp&reflink=desktopwebshare_permalink

enablement. CRE could easily lead to very large-scale projects that move quickly because the capital markets are eager to invest in electricity infrastructure, and fast moving and creative developers will be attractive.

CRE utility projects will provide the technologies, fuels, resources, and size that their customers choose. That can include the following attributes:

- Generation Type: Flexible combinations of natural gas, nuclear, and renewables with on-site backup.
- Scale: Unlimited.
- Timeline: 2–3 years from site control to commercial operation, once state adoption of CRE is in place.
- Load Served: Clustered large customers.
- Connection: Fully islanded thus avoiding reliability or tariff obligations for others.

DOE can support these projects not through grants or loans but simply by removing federal uncertainty that prevents investors from proceeding.

3. High-Priority Zones (RFI Question 2)

CRE adoption is especially promising in zones where rapid load growth collides with transmission bottlenecks:

Zone	Characteristics	Potential Benefit of CRE
Texas Gulf Coast	Explosive AI & industrial demand; ERCOT queue congestion; limited firm capacity	CRE utilities can serve new industrial clusters outside ERCOT without degrading ERCOT reliability
Ohio-Kentucky-Pennsylvania Corridor	Industrial reshoring and data-center expansion; limited generation retirements replacement	CRE avoids PJM queue backlogs and state-by-state retail jurisdiction conflicts
Mountain West (Utah-Nevada)	Abundant land, renewable potential, and proximity to Western AI hubs	CRE enables private, fast-build projects disconnected from long WAPA/FERC processes

4. DOE Funding, Financing, and Technical Assistance (RFI Question 3)

DOE's contribution is not monetary but enabling.

- Issue a DOE–FERC joint policy statement confirming that islanded CRE utilities serving captive loads are *not public utilities* under the Federal Power Act or NERC jurisdiction.
- Encourage states to adopt this stance through DOE's State Energy Program (SEP) guidance.

5. Load Growth Trends (RFI Question 4)

Load growth is unprecedented. Traditional utilities cannot finance or pass through regulatory bottlenecks fast enough. In some cases, they'll be capital constrained due to the mismatch of their low risk regulated rate of return and the increased risk of datacenter projects. CRE offers a parallel path—privately built capacity that adds supply without affecting regulated rates or queues. The same investors in datacenters will be attracted to the CRE utilities that serve them.

6. Grid Infrastructure Constraints (RFI Question 5)

6.1 Barriers

Category	Example Constraint	CRE Solution
Transmission Queues	Multi-year delays	CRE avoids queues by being non-interconnected
Regulatory Delays	Slow processes for regulated utilities	Private CRE systems avoid the delays
Ratepayer Exposure	Public backlash over subsidies	CRE uses private capital; no rate impact
Reliability Concerns	Overstressed bulk system	CRE isolates large loads, easing legacy system stress
FERC Jurisdiction Ambiguity	Fear of triggering regulation	DOE can issue clarifying guidance to remove uncertainty

6.2 What DOE Can Do

- Publish model guidance: "Criteria for Non-Jurisdictional, Islanded Utility Systems Serving Large Private Loads."

7. Additional Comments and Cross-Cutting Recommendations (RFI Question 6)

7.1 Policy Framework

DOE's leadership can create a safe space for states and private developers to explore CRE without fear of triggering FERC or NERC jurisdiction. Actions include model state legislation or regulatory guidance (developed under SEP outreach).

7.2 Broader National Impact

If even 10 percent of new large-load growth (≈5–10 GW/year) is served by CRE systems:

- U.S. generation capacity could grow 50–100 GW by 2035 without public funding.
- Existing ratepayers avoid billions in cost and congestion impacts.
- Federal reliability metrics improve as islanded systems reduce stress on the bulk grid.

- CRE utilities will be able to innovate in ways that aren't possible or even imaginable in today's sector. These innovations can guide improvements in the regulated sector as well.

7.3 Closing Statement

Consumer Regulated Electricity is not a subsidy, a new bureaucracy, or a public-funding request. It is a permission structure—a lawful, voluntary path for private capital to build their own generation and networks safely and quickly based upon the interests of their customers. DOE can make this possible within existing authority, at no cost or risk to taxpayers, while accelerating the expansion of national electricity supply.

We urge DOE to include CRE-enabling guidance and coordination in its forthcoming "Speed to Power" implementation plan.

Appendix B – Draft Outline: DOE–FERC Joint Policy Statement on Consumer Regulated Electricity (CRE) Systems

U.S. Department of Energy
Federal Energy Regulatory Commission
Joint Policy Statement on Non-Jurisdictional, Islanded Electric Systems Serving Large Private Loads
(Draft Outline for DOE Consideration – November 2025)

I. Purpose and Policy Intent

This joint policy statement clarifies how the Department of Energy (DOE) and the Federal Energy Regulatory Commission (FERC) interpret existing statutes as they apply to privately financed, islanded electric systems developed to serve one or more large commercial or industrial customers under direct contractual arrangements.

The purpose of this statement is to:

1. Encourage private capital investment in new generation and transmission facilities that can meet rapid load growth associated with advanced computing, manufacturing, and industrial expansion.

2. Reduce pressure on existing rate-based systems by enabling voluntary, self-contained electric systems to serve new loads without shifting costs or reliability risks to existing ratepayers.

3. Clarify jurisdictional boundaries to provide legal certainty for developers, customers, and state authorities.

4. Support the national goal of accelerating "Speed to Power"—the rapid expansion of energy supply and delivery capacity needed to sustain economic growth.

II. Definitions

For purposes of this policy statement:

- Consumer Regulated Electricity (CRE) Utility means an entity that:

    1. Owns or operates generation, transmission, or distribution facilities that are electrically isolated from the Bulk Electric System (BES);

    2. Supplies electricity and related products and services to commercial or industrial customers with whom it has direct contracts; and

    3. Is not interconnected with a state-regulated public utility system.

- Islanded System means a power system that operates independently of, and is not synchronously interconnected to, the BES or to facilities subject to FERC's open-access and reliability jurisdiction.

III. Statutory Framework and Jurisdictional Clarifications

1. Federal Power Act (FPA):
    - An entity that sells electricity only to identified, contractually bound customers and does not offer service to the public is not a "public utility" under Section 201(e) of the FPA.
    - Therefore, such a CRE utility's rates, terms, and conditions of sale are not subject to FERC regulation under Part II of the FPA.
2. Federal Reliability Standards (NERC/FERC):
    - Because CRE systems are not part of the BES, they are not subject to NERC registration or reliability standards.
3. DOE Authorities:
    - DOE may recognize CRE utilities as legitimate contributors to national capacity expansion under "Speed to Power" and related initiatives.
4. State Jurisdiction:
    - States retain authority to determine whether such entities qualify as public utilities under state law.
    - DOE and FERC encourage state commissions to recognize that islanded CRE utilities serving private customers do not constitute public utilities in the traditional sense, as they do not impose costs or reliability obligations on the broader public network.

IV. Guiding Principles

To ensure CRE systems serve the public interest, DOE and FERC jointly affirm the following principles:

1. Voluntary Participation: CRE utilities must serve only consenting large customers; no customer shall be compelled to take service.
2. Financial Self-Reliance: All capital, operating, and decommissioning costs are borne by customers or private investors—not taxpayers or ratepayers.

3. Electrical Isolation: CRE systems must maintain verifiable isolation from the BES or use controllable interfaces approved by DOE and state authorities.

4. Reconnection Pathways: If a CRE utility later seeks to interconnect with the BES, it must obtain all required approvals and will thereafter be subject to applicable FERC/NERC jurisdiction.

V. Conclusion

This policy statement affirms that private, islanded electric systems serving large customers can lawfully operate outside traditional FERC jurisdiction, provided they remain isolated from the BES.

By clarifying this boundary, DOE and FERC aim to accelerate energy infrastructure growth, reduce strain on existing rate-based systems, increase the pace and scale of innovation, and enable rapid, privately financed capacity additions consistent with national economic and reliability goals—at no cost or risk to taxpayers or existing ratepayers.

Appendix C – Model State Statute Supportive of CRE

AN ACT to Allow for Consumer Regulated Electric Utilities

Section 1. Legislative Findings and Purpose.

The Legislature finds that:

1. Reliable, affordable, and sufficient electricity supply is vital to economic growth and public welfare.
2. New industrial, commercial, and data-center developments require rapid access to electricity supplies without shifting costs or risks to existing ratepayers.
3. It is the policy of this state to permit the creation of Consumer Regulated Electric Utilities—privately governed electricity providers serving new, nonresidential load—operating independently of the state-regulated utility system.
4. Consumer Regulated Electric Utilities shall remain subject to environmental, safety, and workplace laws protecting the public interest, while otherwise operating outside public utility regulation.

Section 2. Definitions.

1. **Consumer Regulated Electric Utility (CREU)** means an electric generation and supply system constructed after [effective date] for the sole purpose of serving new industrial, commercial, data-center, or other nonresidential loads not previously served by any retail electric supplier. A CREU may own or operate any facilities necessary for generation, energy storage, transmission, distribution, and the supply of electricity, and may sell electricity at retail to eligible customers, provided the system is physically islanded from regulated utilities and the bulk electric system and is fully contained within this state.

Section 3. Exemption from Public Utility Regulation.

1. A CREU shall not be considered a public utility for purposes of public utility regulation. The public utility code shall not apply to a CREU except as expressly stated in this Act. The public utility regulator shall have only the jurisdiction expressly granted in this Act.
2. A CREU shall remain subject to other state statutes and regulations including:
    a) Environmental protection and permitting laws;
    b) Building and fire codes;
    c) Workplace health and safety standards; and
    d) Storm-debris removal and right-of-way maintenance requirements for any facilities located within a public right-of-way.

3. If a CREU elects to interconnect with a system subject to public utility regulation, it shall first obtain all approvals required under applicable law, and upon such interconnection shall cease to be a CREU and thereafter shall be subject to the public utility code and regulation by the public utility regulator to the extent prescribed by law.

Section 4. Facilities Located within Public Rights-of-Way.

A CREU may construct and operate facilities within existing public rights-of-way, subject to the same permitting, restoration, and public-safety requirements applicable to public utilities.

Review of such applications shall be limited exclusively to issues of public safety, environmental protection, adequacy of right-of-way restoration, and storm-response plans.

Section 5. Construction and Severability.

1. This Act shall be liberally construed to encourage the establishment of Consumer Regulated Electric Utilities to serve new load and promote economic development.
2. If any provision of this Act is held invalid, the remaining provisions shall not be affected.