

DATA CENTER DEVELOPMENT

Babst Calland's team of attorneys leads all phases of data center development: site acquisition and control, power purchase agreements (PPAs) and power generation agreements (PGAs), grid interconnection, regulatory compliance (state and federal), construction contracts (EPC / design-build / modular construction), economic and tax incentives, land use and zoning, environmental permitting, and OEM and operational agreements including service level, uptime, backup power and decommissioning. This broad scope is critical to ensure that the power infrastructure meets capacity goals but also that risk is managed across jurisdictions, energy market types, and technology choices.

This multidisciplinary data center development legal team brings decades of experience in land use and zoning, real estate, environmental and regulatory, energy, construction, emerging technologies, and corporate law. The team is currently guiding the development of well over 3,000 MW of new power generation capacity in data center projects – spanning hyperscale campuses and smaller modular facilities – across Pennsylvania and West Virginia. These projects include design, permitting, power generation, interconnection and financing of both behind-the-meter generation assets (natural gas turbines, solar + storage, etc.) and fully islanded power systems that provide baseload, redundancy, and resiliency to support mission-critical workloads.

Babst Calland's representative experience navigating the opportunities and challenges related to data center development includes the following work:

Site Selection & Development

- Guiding large-scale site selection, water and energy access, and infrastructure alignment, with a focus on regulatory compliance and risk analysis.
- Advising on co-located energy infrastructure, including gas pipelines, electric transmission, solar power generation and battery energy storage systems (BESS).
- Advising on land use and zoning, variances, conditional use permits and public hearings for new and expanding data center sites.

Contracts & Transactions

- Structuring and reviewing leasing and colocation agreements addressing power, connectivity, space allocation and shared services.
- Advising on Engineering, Procurement and Construction (EPC), design-build and architectural service contracts tailored to mission-critical infrastructure.
- Supporting operation and maintenance (OM) matters, including negotiating OM contracts related to power supply and cooling systems, and addressing uptime, preventative maintenance, and vendor oversight.
- Negotiating and drafting enterprise service agreements (SaaS, IaaS), SLAs, service-level agreements (SLAs), and software licensing terms for virtualized infrastructure and cloud-based platforms.
- Advising on joint ventures, M&A transactions, financing and anchor tenancy for small-scale and large-scale data center developments.
- Structuring and negotiating complex energy service agreements for battery energy storage system (BESS) projects, as well as SREC contracts and solar power purchase agreements (PPAs) on behalf of data center developers and operators, with a focus on pricing mechanisms, performance guarantees, dispatch rights, and risk allocation across project stakeholders.

Permitting & Compliance

- Navigating environmental compliance, utility, and development permitting at federal, state and local levels.
- Structuring public, private and hybrid cloud solutions with attention to data privacy and cross-border compliance.
- Developing policies for data access, governance, retention, AI transparency, and data security and privacy regulatory compliance.
- Providing employment law guidance, workforce compliance, and skilled labor sourcing for data center projects.
- Representing clients in litigation and disputes involving commercial contracts, zoning environmental compliance and cybersecurity and privacy-related incidents.

If you need assistance with matters related to data center development, please contact Justine M. Kasznica at jkasznica@babstcalland.com or (412) 394-6466 or Donald C. Bluedorn II at dbluedorn@babstcalland.com or (412) 394-5450.

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