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Navigating Opportunities and Challenges for Data Centers in the Region

As the national demand for AI and digital services surges, energy-rich Pennsylvania has emerged as a top destination for data center development. With trillions of dollars projected in private capital driving these projects, the regional economic opportunities are vast—but so are the hurdles.

Energy-rich and workforce-strong, Pennsylvania is the focus of an increased national demand to develop and power data centers – centralized technology hardware facilities that support digital services such as AI, streaming and more. "By 2030, $1 trillion of new invested private capital will be devoted to data center projects," said Justine Kasznica, chair of the Emerging Technologies Group and team lead of the data center development practice for the law firm Babst Calland.

To fuel the global demand signal, approximately 100 gigawatts of new power generation will need to come online, fueling the 1000 terawatt-hours of new electricity projected to be consumed on an annual basis by 2030. Forty-five percent of that is expected to be driven by the United States.

Domestically, the Commonwealth of Pennsylvania ranks among the top states for growth in data center development. In 2025 alone, more than 90 billion dollars' worth of new data center, energy, and AI infrastructure commitments were announced across Pennsylvania.

But despite tremendous demand and potential for significant regional economic opportunities, communities in which these centers are proposed are faced with a number of issues, and developers need to be prepared to address them.

"They have to go somewhere and the somewhere is in someone's community no matter where it is; whether it's rural, urban or suburban, it's somebody's home," said Anna Jewart, an attorney who focuses her practice in real estate, land use and zoning, in the Energy and Natural Resources, and Public Sector groups at Babst Calland.

Babst Calland's multidisciplinary data center development team includes specialists in land use and zoning, real estate, environmental and regulatory, energy, construction, emerging technologies, and corporate law. On the land use side, Babst Calland works closely with developers to navigate Pennsylvania's highly localized land use process in its more than 2,500 municipalities. To position themselves for success, the best developers seek legal counsel early in the siting process. Early consideration of local, as well as state and federal regulations, in addition to potential local community concerns, is key to selecting the most appropriate site for development.

"The right data center in the right location can be very good for a community," Jewart said. "If you properly develop a site and address concerns early on, you can really provide a relatively low impact use for a community, especially compared to some of the other industrial uses that they are replacing in a community that really needs reinvestment."

As people learn more about data centers, community involvement and attention to development increases. Pennsylvania's land use approval processes often require public hearings and public meetings. These processes offer a forum for developers to welcome community concerns and often shape neighbors' expectations of how the facility is going to impact day-to-day life in their community. A successful developer will treat these hearings as an opportunity, not a burden. Long-time residents often have information about a property or community that may be valuable to developers. Concerns raised during these meetings and hearings are also, mostly, reasonable and capable of being addressed through design or operational practices.

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> **JUSTINE KASZNICA**

"If you have a good project, you've not only anticipated those concerns, but you also are able to adapt throughout the process to be able to impose additional conditions, change your design or respond to what people are telling you," Jewart said.

The 70-20-10 rule

In Pennsylvania, land use approval processes, governed by the Pennsylvania Municipalities Planning Code, and implemented through local ordinances, are designed to ensure people have the opportunity to have their voices heard.

At a typical public meeting or hearing, Jewart said that in her experience, about 70 percent of citizens attending will have reasonable concerns that typically stem from how the proposed data center will impact their livelihoods, home values, and their children's futures. They typically want answers or commitments on addressable issues such as potential sound, air quality, traffic, aesthetics, water consumption and electricity rates.

Another approximately 20 percent of citizens will raise fears or assumptions that are grounded in reasonable concerns but based on false assumptions, misinformation or disinformation. They might have absorbed information that is false or uncorroborated, applicable to past iterations of the technology, or informed by the bad reputation of a differently designed center in another community. This is a group whose concerns can often be addressed through education, both through the public hearing process and through active community engagement.

Unfortunately, oftentimes, the remaining 10 percent are going to be unhappy with the project, regardless of the information provided. Still, developers need to listen

and respect their concerns, even if they might not ever come around on the project.

"Your main audience is those 70 percent of people who have true concerns about how they are going to live their lives with this technology located next to them," Jewart said. "When you do that, you have a successful project. When you address that extra 20 percent then you have a really successful project."

But in some instances, there can be true community support, as well. "Seeing the potential for new revenue and low impact on school districts and public safety with a current data center project, residents of one community are 'waiting with open arms' for its completion," Kasznica said.

Proposed regulations

Earlier this month, Governor Shapiro, in his budget address, proposed that data centers be required to fully fund their own power infrastructure – a call to BYOP, or bring your own power, as part of a responsible infrastructure development grid strategy.

"The Governor's proposal is a direct response to the single greatest community concern voiced about data centers – that data centers drive rising electrical costs that will be borne by the average ratepayer. The idea is to encourage data center projects to bring their own power generation sources rather than to rely on an already strained grid for electricity," Kasznica said.

Babst Calland is working on several projects that have either a power plant or equipment on site to generate the necessary electrical power. Not only does this fuel the data center, but it addresses the demand to generate more power by 2030.

In addition, the Governor's data center strategy emphasizes the need for community engagement and transparency, setting high environmental and water consumption standards as well as the development of AI education and workforce training programs.

In a similar vein, at the federal level, the White House has introduced a federal compact for hyperscalers (massive-scale data processing and storage providers like Microsoft Azure and Google Cloud) to meet certain requirements, notably that projects cannot increase the ratepayer experience. One hundred percent of all infrastructure costs associated with creating a data center project must be met by the hyperscaler looking to build that data center project. The compact also sets out a "water-positive" approach. Hyperscalers cannot tax local water supplies but rather are required to find ways to recycle or produce water necessary for cooling data center facilities. Finally, the compact calls on hyperscalers to mitigate community impacts like traffic, noise, and environmental effects, and to support AI education and workforce programs in local areas where facilities are built.

At the local level, many residents have a misconception about what a municipality can do versus what might be in the regulatory jurisdiction of the county, state, federal government, or one of the agencies (such as the Department of Environmental Protection).

"For the most part, the most control that municipalities have is if they choose to enact zoning regulations," Jewart said.

Zoning powers allow municipalities to identify and restrict where data centers can be located within their boundaries. Municipalities cannot prohibit or exclude data centers entirely, but they can limit where they are located. For example, many municipalities may choose to only allow data centers in industrial districts, where you might find an industrial park, or to areas burdened by old brownfields. Next, the municipality has the authority, through zoning, to regulate issues such as setbacks, height and noise limits, and landscaping restrictions. But zoning can only regulate where data centers operate, not how they operate.

Many other issues that are of concern to a local community, for example, air quality or utility rates, are not regulated by the municipality and cannot legally be addressed through a zoning or other local ordinance. However, when it comes to concerns that involve other agencies, a developer can still work with the community, perhaps by making voluntary concessions that work toward the best solutions. For example, if there are concerns over water consumption, they can propose an alternative system design during the zoning process.

Currently, Babst Calland is guiding the development of data center projects that account for nearly 4 gigawatts of power. Some, potentially robust projects in western Pennsylvania, are "bring your own power" centers, measuring 1 gigawatt each. Others, measuring from 500 to 600 megawatts, are in the central and eastern part of the state. Many of the newer projects will be grid-connected, meaning they are setting "digital reality structures" that can support data center development. Other projects include hybrid facilities.

"When developers come to us, they are looking for local support," Kasznica said.

When Babst Calland's land use team gets the call early in the process to assist with the site selection process and help educate the community, well before any applications are submitted, it can greatly increase the likelihood of success of a data center project.

Babst Calland also provides project management support across every other facet of data center development, including supply chain issues.

"There's a real race to get these projects up and going, but there are all sorts of issues," Kasznica said, adding, for example, that current development has some necessary power equipment on hold with suppliers for three years.

A new project should be built in roughly three to four years based on hyperscaler and investor demand. But ideally, these projects should take two years if supply chain and permitting processes run smoothly.

Advice to developers – look at local regulations "yesterday"

"If there is one piece of advice to developers across the board, it's to find a local partner in your regulatory compliance team to walk with you hand-in-hand as you go through that two- to three-year process," Jewart said.

Developers with a potential property under contract – or even close to it – should immediately start looking at local regulations because they can change relatively quickly, and, in many instances, are the biggest barrier to development. "Make communities know that you're understanding their concerns and you're going to address them as best you can; the process will be quicker, and you'll meet that 2030 date," Jewart said.

View the video recording of this interview at bizjournals.com/pittsburgh/babstcalland. To learn more about Babst Calland and its data center development practice, visit www.babstcalland.com.

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Justine Kasznica is a shareholder and chair of the Emerging Technologies Group at Babst Calland. With a focus on technology and commercial transactions, corporate finance, and regulatory compliance, she represents clients across a wide range industries. In addition, she advises and counsels companies navigating the complex legal landscape of data center development, ensuring projects are compliant with relevant laws and regulations.

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Anna Jewart is an associate in the Public Sector and Energy and Natural Resources groups of Babst Calland. Ms. Jewart's practice focuses primarily on municipal and land use law with a concentration in general municipal, zoning, subdivision and land development, and code enforcement.

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