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One Year Later: How Pennsylvania's Data Center Rules Are Rewriting Deal Terms

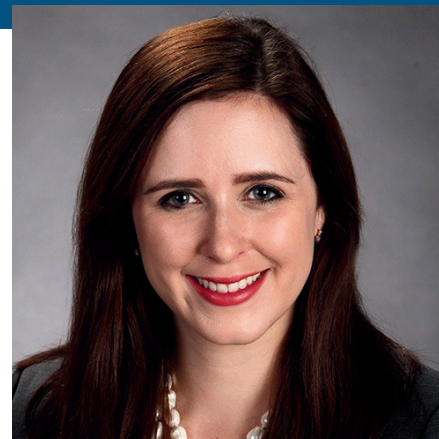
When U.S. Senator Dave McCormick convened the Pennsylvania Energy and Innovation Summit in Pittsburgh in July 2025, more than \$90 billion in new investment in AI infrastructure, energy generation, transmission and workforce development was announced. The message was that Pennsylvania is uniquely positioned in the national AI data center economy due to its abundant natural gas production, industrial redevelopment sites, available land, strategic location and skilled workforce.

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One Year Later:

How Pennsylvania's Data Center Rules Are Rewriting Deal Terms

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A year later, that remains true. What has changed is the nature of the questions. The issue is no longer whether projects will come to Pennsylvania. It is whether power, permitting, transmission and local approvals can keep pace and, increasingly, who bears the cost and the risk when they cannot.

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Harrisburg Set Standards but Left the Rules Unfinished

In May, Governor Shapiro released the full Governor's Responsible Infrastructure Development (GRID) Standards, first previewed in his February budget address. Projects seeking Commonwealth support must demonstrate commitments in four areas:

- energy affordability: projects should not shift electric costs onto existing ratepayers;
- transparency and community engagement: developers should coordinate early with local governments and residents;
- workforce and economic development: projects should create jobs and local economic benefit; and
- environmental stewardship: developers should address water use, efficiency and sustainability.

It is worth being precise about what GRID is and is not. Certification is voluntary. It is administered jointly by the Office of Transformation and Opportunity and the Department of Revenue, and it opens the door to coordinated project assistance and expedited permitting through the Permit Fast Track Program. The Administration proposed to go further and condition the existing data center sales and use tax exemption on GRID certification, but that requires legislation.

The legislature has not gone along – at least not yet. The \$50.8 billion budget signed on July 12 did two things for data centers: beginning next summer, facilities with peak electric demand above 10 megawatts must report their energy and water usage annually, with penalties of \$10,000 per day for noncompliance, and PJM must give state regulators greater insight into its demand forecasting. The tax exemption itself was left in place and unconditioned.

That is unlikely to be the last word. Before the budget deal, the House passed three bipartisan bills: one codifying the GRID Standards and conditioning the tax exemption on certification, one repealing the exemption outright, and one allowing municipalities to impose 180-day moratoria on data center applications. All three sit with the Senate.

For developers, the practical takeaway is that state policy is still in motion, and incentives available today may carry conditions tomorrow.

Regulators Have Been More Decisive

The Pennsylvania Public Utility Commission has moved faster. On April 30, the Commission voted unanimously to adopt a model tariff framework for large load customers – those requiring more than 50 megawatts individually or 100 megawatts in aggregate – and issued its final order in May.

Two features carry real commercial weight. Utilities are directed to charge large load customers for system upgrades that would not have been needed but for that customer's interconnection, whether or not other customers also benefit. And large load

customers may self-construct certain upgrades, which moves construction risk, schedule and contracting responsibility onto the customer.

The framework is guidance rather than binding regulation, and several questions were reserved for individual utility filings. But the direction is unmistakable: the cost of serving new large load belongs to the new large load. For a developer, that translates into higher and less predictable upfront infrastructure costs, and into a set of construction obligations that may sit with the project rather than with the utility.

PJM Has Now Put Supply on the Developer

The pressure behind that shift is regional. For years PJM Interconnection operated with comfortable reserve generation capacity. That has changed quickly: roughly 15 gigawatts of generation has retired across the PJM footprint since 2022, while new large load demand is projected to grow by approximately 70 gigawatts by 2038. New generation, meanwhile, faces permitting, financing and supply chain delays. In May, PJM published a white paper examining structural reforms to its capacity market and opened a stakeholder process that will run through the year.

The most consequential development came on July 27, when the PJM Board of Managers concluded its Critical Issue Fast Path process and directed filings with federal regulators that would change how new large loads are served.

PJM will create a registry of large loads – customers with peak demand of 50 megawatts or more at a single site –

tracking location, service territory and whether the customer has secured its own supply. It will conduct a one-time capacity procurement this fall, with the amount reduced to reflect documented bilateral contracts and self-supply serving new load. Most significantly, beginning June 1, 2027, new large loads that cannot bring sufficient capacity would be served under an Interim Resource Adequacy Service, meaning their power would be curtailed ahead of other customers when the system is stressed. Curtailed load would be compensated, though eligibility and funding are left to the states.

The proposals remain pending and subject to change. But the proposition is straightforward: a new large load either brings capacity sufficient to serve itself or accepts curtailment priority below everyone else.

Natural Gas Is Part of the Answer

That is one reason natural gas generation has reemerged as essential AI infrastructure. AI computing requires reliable, around-the-clock electricity that renewable resources alone cannot presently supply at the necessary scale. Many technology companies continue to pursue ambitious carbon reduction goals, but the round-the-clock profile of AI load has made firm generation a practical necessity. Developers are evaluating co-located gas generation, behind-the-meter power, battery storage and hybrid portfolios, and Pennsylvania's position as a leading gas producer is a genuine competitive advantage. The resurgence is driving parallel investment in transmission, substations and pipelines.

The practical consequence is that site selection has changed. Developers now

evaluate land on the availability of substation capacity, proximity to transmission and the opportunity for dedicated or co-located generation, rather than on acreage, topography and price alone. A site without a credible power answer is increasingly not a site.

Local Governments Remain the First Gate

While state and federal policy has evolved, many of the most consequential decisions still occur at the municipal level. Zoning ordinances were not written with 500-megawatt or gigawatt-scale computing facilities in mind, and local officials are now evaluating infrastructure capacity, traffic, water, emergency services and compatibility with surrounding uses alongside conventional land development questions.

Early engagement with municipal officials, neighboring owners and local stakeholders has become a component of project feasibility rather than a box checked once an application is filed. Community opposition rarely stops a project outright, but it reliably affects schedule – and schedule is increasingly what determines whether a site remains competitive.

What This Means for Deal Terms

These developments are not confined to permits and tariffs. They are deal points that need to be addressed early, often before lawyers are in the room. Four are worth flagging now.

- *Firm service can no longer be assumed.* Leases, colocation agreements and uptime commitments are typically written

on the premise of firm power.

Where a project has not secured its own capacity, curtailment risk has to be allocated among developer, operator and tenant rather than left to the utility tariff. Commitments made to win local or state support, including any waiver of curtailment compensation, outlast the approval that prompted them.

- *Securing generation is now gating diligence.* Because documented supply arrangements reduce a project's exposure, whether a site or project has secured power is a valuation question at the front end of an acquisition rather than something to solve after closing. Buyers should expect supply arrangements to be diligenced with the same rigor as title and permitting.
- *Regulatory support has become a condition to closing.* PJM's proposed opt-out requires documented backing from the governor's office, the state regulator and the interconnecting customer. PJM's new expedited interconnection track, approved by federal regulators in June, requires demonstrated site control and a commitment from the state siting authority. These are the kinds of items that belong in a purchase agreement.
- *Confidentiality assumptions deserve a second look.* A market that has largely operated under code names and nondisclosure agreements now faces a public load registry. That bears directly on confidentiality provisions in development agreements, land options and utility service agreements. Developers accustomed to advancing sites quietly should assume less quiet.

Looking Ahead

Pennsylvania remains exceptionally well positioned to lead the next phase of AI infrastructure development. But the past year has shown that attracting investment is the easier part. The harder work – expanding supply, streamlining permitting, protecting reliability and maintaining public confidence – is now being negotiated project by project, in documents signed long before a facility is energized.

None of this is exotic. It is ordinary commercial contracting applied to a set of risks that did not exist in this form 18 months ago. The developers, owners and investors who understand where that risk now sits, and who address it at the term sheet rather than at the closing table, will move faster than those who do not.

Babst Calland attorneys are tracking the most pressing issues related to data centers. For questions or more information, please contact Kate Cooper.

Kate Cooper is a shareholder of the law firm Babst Calland. She provides practical, business-minded counsel with a primary focus on mergers and acquisitions, commercial contracts, and general business counseling, with particular experience in energy, data center and infrastructure development, and manufacturing. She is currently advising on multiple data center projects, working with developers to navigate the legal, regulatory and commercial issues addressed in this article.