North Dakota Legislative Council

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STATE-BY-STATE DATA CENTER REGULATION

This memorandum provides information regarding the regulations applied to data centers in other states; specifically, regulations applied in Texas and California.

NORTH DAKOTA

North Dakota has become an attractive location for data center development due to its cold climate, lower energy costs, favorable tax environment, and access to reliable energy sources. As North Dakota's economy continues to diversify, technological advancements like Artificial Intelligence (AI), 5G, and Internet of Things (IoT) are accelerating the demand for data centers, which consume vast amounts of energy and impact the local grid. The North Dakota Public Service Commission primarily oversees utility rates, transmission line siting, and the regulation of investor-owned utilities. However, it does not have the authority to regulate data centers directly.

The North Dakota Public Service Commission regulates energy providers that supply data centers, but these powers are limited when it comes to direct control over the centers' operational practices, energy consumption, and sustainability measures[1]. The absence of regulatory authority over data centers means that developers may construct facilities without comprehensive oversight regarding their energy demands, environmental impact, or integration into the state's energy grid. Lack of regulation has the potential to lead to an underprepared grid that may struggle to meet both growing demand and sustainability goals. Data centers require massive amounts of energy, leading to concerns about grid capacity, particularly in rural areas, and the environmental impact of such high consumption[2]. The North Dakota Public Service Commission faces jurisdictional limitations when it comes to overseeing data centers' locations and power needs[3]. The North Dakota Public Service Commission has no direct authority over a data center unless the data center is connected to a regulated utility. Other states, such as Texas and California, have begun to address the impact of data centers through regulatory frameworks.

TEXAS

Texas has a deregulated energy market that offers flexibility for data centers in choosing their energy suppliers. The Public Utility Commission of Texas oversees the reliability of the state's grid but does not directly regulate energy consumption by data centers. However, with the rapidly increasing number of data centers in the state, concerns about resource adequacy of the grid have been raised. The Chairman of the Public Utility Commission of Texas has urged developers to consider providing some of their own power, especially if the data center plans to connect to the grid in the next 12 to 15 months[4]. This option of partial self-powering seeks to prevent overloading existing energy resources during periods of high demand[5].

In Texas, legislators are eager to enjoy the economic benefits of data centers, which are fast becoming large sources of tax revenue. The new data center in Fort Worth, which sparked opposition from nearby residents, is projected to contribute $14 million in additional revenue for the city and local school district[6]. But at the same time, state lawmakers are growing increasingly uneasy about placing additional load demands on the grid, especially

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[1] Stewart, A., & Mowery, J. (2023). *Navigating data center regulation: The case for North Dakota*. North Dakota Journal of Policy and Development, 45(2), 56-73.

[2] Landgate. (2024, October 29). What are data centers and how do they work? Retrieved from https://www.landgate.com/news/what-are-data-centers-and-how-do-they-work

[3] NDPSC. (2024, July 30). PSC conference to explore issues around power-hungry data centers. North Dakota Monitor. https://northdakotamonitor.com/2024/07/30/psc-conference-to-explore-issues-around-power-hungry-data-centers/

[4] Skidmore, Z. (2024, September 23). *CenterPoint Energy reports 700 percent increase in data center interconnection requests in Texas*. Data Center Dynamics. Retrieved from https://www.datacenterdynamics.com/en/news/centerpoint-energy-reports-700-percent-increase-in-data-center-interconnection-requests-in-texas/

[5] Texas Public Utility Commission. (2023). Data center energy regulations and grid stability. https://www.puc.texas.gov

[6] Osborne, J. (2024, September 23). Texas politicians weigh energy regulation to accommodate data centers. GovTech. https://www.govtech.com/infrastructure/texas-politicians-weigh-energy-regulation-to-accommodate-data-centers.

after widespread power outages during Winter Storm Uri in 2021, and then again during Hurricane Beryl this summer[7]. Regulators face the question of who will pay the cost for grid upgrades necessary to serve data centers, which typically have been spread evenly across new and existing customers. The utility giant American Electric Power (AEP), which operates in Texas, is requesting the state utility commission shift the cost of building out the grid to new customers like data centers, in what is widely viewed as a test case for other utilities[8].

Energy policies primarily focus on market regulation and electricity pricing in Texas. The Texas Energy Efficiency Program (TEEAP), overseen by the State Energy Conservation Office, offers funding and incentives for energy-efficient projects, but these programs do not target data centers specifically. Texas' deregulated market allows data centers the freedom to select energy suppliers, which may reduce operational costs but does not directly address the sector's energy consumption patterns or sustainability efforts. Key regulations in Texas, such as Title 2 of the Texas Utilities Code, and Title 16 of the Texas Administrative Code, provide the foundational framework for utility regulation, including energy consumption. The Texas Public Utility Commission has authority over ratesetting and market oversight, ensuring reliability through monitoring grid stability and energy crises response. However, the commission does not enforce specific regulations or provide incentives targeting energy performance in data centers. The commission does not regulate the operation of data centers directly (such as data security or network infrastructure); however, the commission oversees the utilities providing electricity to data centers, which includes ensuring the rates charged to large customers like data centers are fair and reflect the cost of service[9]. This includes considerations of infrastructure costs, renewable energy plans, and other utility-related matters.

Texas' energy efficiency policies are more generalized, promoting efficiency across various sectors. Texas Senate Bill 7 (1999) and the deregulation of the electricity market have established a competitive structure for electricity supply. This allows data centers to select energy suppliers based on cost and service preferences, which could be advantageous in reducing operational costs. However, without a direct mandate like California's Title 24, Texas does not enforce strict energy performance standards for data centers. Although renewable energy options are available, the state lacks specific regulations aimed at ensuring data centers adopt energy-efficient or renewable practices. While Texas encourages overall energy efficiency through programs like the TEEAP, which includes incentives for energy-efficient projects across various sectors, there are no targeted initiatives for the data center industry.

CALIFORNIA

California is one of the most stringent states when it comes to regulating energy consumption in data centers. The California Public Utilities Commission mandates data centers comply with Title 24 of the California Energy Code, which focuses on energy efficiency, renewable energy use, and carbon footprint management[10]. California requires data centers to meet certain standards for heating and cooling systems, implement energy-efficient technologies, and participate in Demand Response programs that help balance grid load during peak periods[11]. California also offers financial incentives through programs like Assembly Bill 802 (2015), which encourages data centers to adopt energy-efficient technologies[12]. These regulations help mitigate the environmental impact of data centers while promoting sustainable practices. In addition, California's renewable energy goals are particularly relevant to data centers, with many facilities sourcing their energy from wind and solar power.

The Governor of California, Gavin Newsom, signed two bills into law--the Climate Corporate Data Accountability Act, Senate Bill 253 (2023), and the Climate-Related Financial Risk Act, Senate Bill 261 (2023). Both Senate Bill 253 and Senate Bill 261 require corporations to report significant climate impacts, and in some cases, these regulations are stricter than the climate disclosure rules introduced by the United States Securities and Exchange Commission in March 2022. Specifically, Seante Bill 253 mandates that large businesses, including data centers, disclose both direct and indirect greenhouse gas emissions. This means data center operators must report the emissions generated by their facilities, including carbon footprints from servers, storage equipment, networking devices, uninterruptible power supplies, HVAC systems, and other essential infrastructure[13].

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[7] Id.
[8] Id.
[9] Public Utility Commission of Texas. (2024, December 27). Filing receipt (Control number 56903, Item number 36). Public Utility Commission of Texas.
[10] California Public Utilities Commission. (2023). *Energy efficiency standards for data centers*. https://www.cpuc.ca.gov
[11] California Energy Commission. (2024, May). Final project report: Enabling energy efficient data center in smart power distribution systems (CEC-500-2024-035). Energy Research and Development Division.
[12] Briscar, J. R. (2017). Data transmission and energy efficient internet data centers. *American University Law Review, 67*(2), 233.
[13] Patrizio, Andy. 2023. "California's Climate Disclosure Laws Could Have Adverse Effects on Data Centers." Data Center Knowledge. https://www.datacenterknowledge.com/sustainability/california-s-climate-disclosure-laws-could-have-adverse-effects-on-data-centers.

Senate Bill 261, on the other hand, requires organizations to prepare a report disclosing their climate-related financial risks, covering both their own and their supply chain risks, and outlining steps taken to mitigate these risks. This law underscores California's desire to hold businesses accountable for their environmental impact and highlights the state's leadership in environmental matters, particularly in sectors like information technology, where data centers play a major role[14].

ENERGY REGULATORY INFORMATION ACROSS VARIOUS STATES

The following provides data center and energy regulatory information across various states, including utility regulation, energy efficiency, energy standards, zoning and permitting, rate structures, and more:

State	Name of Utility Commission	Related Laws and Regulations
Alabama	Alabama Public Service Commission	Code of Alabama § 37-1-20 § 37-15-1 et seq. § 37-18-1
Arizona	Arizona Corporation Commission	Arizona Revised Statutes (ARS) Title 40, Chapter 2. Section 202
California	California Public Utilities Commission	California Energy Code, Title 24 AB 802, Incentive Program Climate Corporate Data Accountability Act, Senate Bill 253 (2023) Climate-Related Financial Risk Act, Senate Bill 261 (2023)
Colorado	Colorado Public Utilities Commission	Colorado Revised Statutes (CRS) CRS 40-3-101 et seq. Colorado Administrative Code (CC 4 CCR 723)
Georgia	Georgia Public Service Commission	Georgia Renewable Energy Standards § 46-2-20 § 46-2-23 § 46-3-50
Illinois	Illinois Commerce Commission	Illinois Compiled Statutes (ILCS) Chapter 220, section 1-101 et seq.
Michigan	Michigan Public Service Commission	Michigan Compiled Laws (MCL) MCL 460.1 et seq.
Minnesota	Minnesota Public Utilities Commission	Minnesota Statutes Chapter 216B.16 Section 216B.1691 Chapter 216C Minnesota Administrative Rules, Chapter 7830
Nevada	Public Utilities Commission of Nevada	Nevada Revised Statutes (NRS) NRS 704.070 NRS 704.780 NRS 701B NRS 704.787 NRS 704.741 - 704.752 Nevada Administrative Code (NAC) 704
New York	New York Public Service Commission	New York Public Service Law (PSL) Title 1, § 66-m & § 66-p. New York State Public Service Commission Rules (16 NYCRR)
North Carolina	North Carolina Utilities Commission	North Carolina General Statutes § 62-2 § 62-133.8 § 62-133.9
Oregon	Oregon Public Utility Commission	Oregon Revised Statutes (ORS) ORS 757.600 to 757.660 ORS 469.010 to 469.130
South Carolina	South Carolina Public Service Commission	South Carolina Code of Laws § 58-3-100 § 58-37-10 § 58-41-20
Tennessee	Tennessee Public Utility Commission and Tennessee Valley Authority	Tennessee Code Annotated § 65-1-101

[14] Id.

State	Name of Utility Commission	Related Laws and Regulations
		§ 65-4-201 § 65-4-123
Texas	Public Utility Commission of Texas	Texas Utilities Code, Title 2. The Texas Administrative Code (TAC), Title 16. Senate Bill 7 (1999)
Virginia	Virginia State Corporation Commission	The Virginia Electric Utility Regulation Act, Title 56, Chapter 23, § 56-576 (Effective until January 1, 2025)
Washington	Washington Utilities and Transportation Commission	Revised Code of Washington RCW 80.01.040 RCW 80.28 RCW 19.280