

## Data Centers

The explosive growth of AI and data centers is creating unprecedented demand for electricity, raising important questions about energy affordability and reliability while triggering complex regulatory and policy disputes over grid interconnection, cost allocation, transmission upgrades, rate design for large-load customers, and behind-the-meter generation arrangements. These pressures are reshaping how data center power transactions get done, requiring increasingly creative commercial structures that balance cost, timing, reliability, and regulatory risk.

Jenner & Block has advised on more than \$100 billion in data center power supply agreements. We deliver a uniquely comprehensive offering to clients seeking to power large data centers today. We advise utilities, technology companies, hyperscalers, and power suppliers in developing bespoke deal structures and negotiating complex agreements to develop critical infrastructure and provide data center customers with reliable and timely electric service. These transactions require specialists who are well-versed in the energy industry, applicable federal and state regulatory and rate frameworks, and current and emerging policy issues. Increasingly, these transactions require specialists who understand and can anticipate the knock-on effects of these large transactions on other customers and can think critically about emerging service structures.

Jenner's Energy Practice, recognized by *Law360* as a 2025 Practice Group of the Year, anchors our data center work. We regularly interface with a wide variety of market participants (including utilities, generators, regulators, policymakers, and large load customers), so we understand how they think and how to structure arrangements that get our clients what they need. Our team includes a former FERC Commissioner and senior FERC legal advisor, energy industry executives, and a deep bench of energy-focused regulatory and transactional practitioners who have structured some of the largest and most innovative data center power arrangements in the country.

Where our clients' needs extend beyond energy, we draw on the firm's other established areas of strength, connecting those capabilities to the commercial and regulatory realities that drive data center projects, including real estate and insurance.

### **Transaction Structuring and Commercial Execution**

We assist technology companies, hyperscalers, utilities, and power suppliers in developing innovative deal structures and negotiating the complex agreements that accompany large-scale data center development: electric supply agreements, contribution in aid of construction agreements (wires and generation), long-lead agreements, security packages, and related commercial arrangements. Our team understands the commercial dynamics driving these deals and structures

arrangements that deliver reliable, timely electric service while managing cost, risk, and regulatory exposure.

### **Innovative Power Solutions**

Interconnection queues, affordability concerns, and evolving regulation are pushing clients toward creative options to powering data centers: behind-the-meter generation, co-location arrangements with existing power plants, private electric networks, powered land transactions, and bespoke power supply structures that don't fit neatly into existing regulatory categories. We help clients evaluate, structure, and execute these arrangements, drawing on deep experience with the commercial, regulatory, and industry considerations that determine whether innovative structures actually work and will be durable over the longer term.

### **Regulatory Navigation**

We help clients navigate complex and evolving regulatory requirements at both the state and federal level, informing commercial decisions, properly assessing and allocating risk, ensuring compliance (especially in the context of complex leasing and behind-the-meter arrangements), and securing the regulatory approvals needed for transformative transactions. Our regulatory work is always in service of commercial objectives: understanding what regulators will and won't approve, how cost allocation decisions affect deal economics and other customers, and where federal and state frameworks create opportunity or risk.

### **Strategic and Policy Counseling**

Data center development happens in communities where elected officials and regulators are balancing a range of priorities, including economic development, energy affordability, grid reliability, and ratepayer protection. We leverage our government and in-house experience and deep understanding of both the energy and technology industries to help clients proactively navigate this landscape: building stakeholder support, anticipating regulatory and political headwinds, and positioning projects to succeed in the states and communities where they want to operate.

### **Beyond Energy: Integrated Strengths**

Many data center projects require expertise well beyond power. We connect our energy work to the firm depth across several areas:

#### **Real Estate and Environmental**

Our real estate team represents asset managers, REITs, developers, and data center participants in complex acquisitions, joint venture formations, and development projects. We have represented data center clients in asset sales, campus development joint ventures, and high-value construction disputes, and we advise on site selection, environmental permitting, and the specialized lease structures these facilities require.

#### **Corporate Transactions and Financing**

We advise on the corporate and financing structures that underpin data center development: mergers, acquisitions, joint ventures, securities offerings, and restructurings. Our corporate team has guided clients through a range of data center commercial transactions, including joint ventures, financings, data center campus service agreements and more.

### **Tribal Partnerships and Development**

Our Energy and Native American Law practices (the latter ranked top-tier by Chambers USA) work together on development matters, negotiating joint ventures to site and construct electric infrastructure on tribal lands with unique investment opportunities, including leasehold interests in capacity and FERC-approved specialized rate recovery mechanisms. Our landmark Morongo transmission project (2023 Government Impact Deal of the Year) demonstrates what's possible when energy expertise and tribal sovereignty knowledge combine on major infrastructure.

### **Telecommunications and Fiber Infrastructure**

We handle fiber-optic infrastructure agreements, telecommunications licensing, and regulatory compliance for network deployments, including securing licensing for data center providers and negotiating fiber agreements with the performance standards, step-in rights, and counterparty protections these arrangements demand.

### **National Security and Compliance**

For data centers serving government customers or involving foreign investment, our national security team (with experience at the CIA, White House National Security Council, DOJ, and the US Senate) advises on export controls, CFIUS review, supply chain compliance, and cybersecurity incident response.

### **Representative Experience**

- Advising a major technology company in the structuring and negotiation of energy infrastructure and power supply and delivery arrangements for the largest proposed data center campus in the world, involving novel structures and cost considerations contemplating multiple gigawatts of new generation and significant wires investment
- Advising various utilities across the country on novel and strategic large-load integration and commercial issues, including transmission and generation buildout, power supply and delivery structures, rate design, interconnection, and cost allocation
- Representing a data center developer in the Southwest in creating a private electric network and sourcing firm power supply to serve 1 GW of data center load, involving novel issues of state regulation and innovative energy supply contracting
- Representing a specialty financing and equipment leasing company in a joint venture to develop a large-scale data center campus comprising multiple buildings, involving complex risk

management, regulatory structuring, and cost allocation issues

- Representing a large Western landowner developing 600–1,000 MW of capacity to serve one or more data centers, analyzing arrangements from cost, reliability, and regulatory perspectives
- Representing an international infrastructure investor in the acquisition of a majority interest in a joint venture with a leading global data center developer and operator to develop and operate a large-scale, multi-tenant, data center campus in the greater Chicagoland area, involving complex joint venture structuring, power purchase and supply agreements, and shared services and facilities arrangements
- Defending utilities in class actions challenging electricity quality and voltage degradation attributed to data center load growth, obtaining voluntary dismissals

## Key Contacts



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## **Related Capabilities**

AI Task Force

Communications, Internet, and Technology

Corporate

Energy

Environmental and Workplace Health and Safety

National Security and Crisis

Native American Law

Real Estate Transactions

Technology