

Initiative Petition for a Law Regulating the Construction, Expansion and Operation of Data Centers

Be it enacted by the People, and by their authority:

Section 1. Chapter 164 of the General Laws is hereby amended by adding the following section:

Section 1A 1/2.

(a) For the purposes of this chapter the following definitions apply:

“Data center”, a facility, campus of facilities, or array of interconnected facilities used to operate, manage, or maintain computers, servers, networking equipment, or other hardware and software systems for the purpose of processing, storing, retrieving, or transmitting data, with a peak annual electric demand of five megawatts or greater.

“Electric company”, a corporation organized under the laws of the commonwealth for the purpose of generating electricity and for selling, transmitting, distributing, transmitting and selling, or distributing and selling, electricity within the commonwealth.

“Permitting agency”, the agency in a city or town with the authority to issue a permit to allow the construction or expansion of a data center.

(b) A permitting agency may not issue a permit to an applicant for the construction or expansion of a data center unless the following conditions are met:

(1) The applicant has in place a contract with an electric company for the provision of electric service that includes terms and conditions designed to protect residential and commercial retail ratepayers from costs associated with data center construction and operation. The contract must include:

- (i) a prohibition on cost-shifting, ensuring that no costs associated with the planning, siting, permitting, construction, upgrade, expansion, interconnection, or operation of electric infrastructure primarily required to serve a data shall be allocated to, recovered from, or otherwise imposed upon residential or commercial retail ratepayers;
- (ii) full cost responsibility requirements under which the data center shall bear all direct and indirect utility system costs, including but not limited to local system upgrades, substations, transformers, feeders, or transmission extensions, network capacity increases, ongoing operation and maintenance costs attributable to serving the facility, and any stranded or under-recovered costs resulting from a reduction in load, cessation of operations, or failure to meet projected usage;
- (iii) financial assurance mechanisms requiring the data to provide adequate financial security—such as insurance instruments, bonds, letters of credit, or exit-fee arrangements—to

- guarantee the recovery of all infrastructure-related costs in the event the facility shuts down, reduces load, or otherwise fails to meet contracted obligations;
- (iv) transparency and reporting obligations requiring the electric company to track and separately account for all costs associated with serving the data center and to make such information, including engineering studies, cost-allocation methodologies, and interconnection agreements, available upon request to the city or town, to the Department of Public Utilities and to the general public;
 - (v) renewable energy requirements for permitting the construction of a new data center under which the electric company must produce sufficient electricity supply to meet the applicant's operational needs using 100 percent renewable energy resources, without reducing the percentage of renewable energy resources that the electric company uses to meet the needs of its other customers;
 - (vi) renewable energy requirements for permitting the expansion of an existing data center built prior to this permitting process being enacted, under which the electric company must produce sufficient electricity supply to meet the applicant's entire operational needs, not merely the data center's net increase in electricity consumption due to the expansion, using 100 percent renewable energy resources, without reducing the percentage of renewable energy resources that the electric company uses to meet the needs of its other customers
- (2) The applicant has obtained a written statement from the applicable municipal or regional water supplier certifying that:
- (i) the projected water demand of the data center is compatible with existing system capacity;
 - (ii) based on reasonably available information, the projected demand can be accommodated without materially reducing the reliability of drinking water service for existing customers in the host or neighboring communities;
 - (iii) the proposed water use is consistent with applicable municipal, regional, or state drought management plans.
- (3) The applicant has in place a written plan for the data center to implement water use reductions during any period in which the Commonwealth or the city or town declares a drought under state or local law. Said water-use reductions must be consistent with the drought-management requirements applicable to similarly situated large commercial or industrial users.
- (4) The contracts, written statements and written plans referred to in this paragraph (b) are provided to the permitting agency.
- (c) Once the permitting agency has decided whether or not to approve the application, it must announce its decision publicly and at the same time make publicly available, on the internet, all of

the documents submitted by the applicant to satisfy the requirements of paragraph (b), as well as the application itself.

- (d) If the permitting agency makes the decision to approve the application, it may not issue a permit for the construction or expansion of a data center unless the voters or the city or town approve of said data center construction or expansion by a two-thirds vote. The vote must be held on the date of the first municipal, state primary or state general election that takes place at least 180 days after the date that the permitting agency announced publicly that the application had been approved, or at least 180 days after all of the documents enumerated in the previous sub-paragraph (c) have been made publicly available on the internet, whichever is later.
- (e) The State Auditor is authorized to conduct an audit of the data center, of any electric company that provides electricity to the data center, and of the applicable municipal or regional water supplier. The audit will be limited to verifying that the data center's ongoing operation after the completion of the permitted construction or expansion is in compliance with the contracts and plans, described in paragraph (b), that were provided to the permitting authority. If the State Auditor determines that the data center, the electric company or the applicable municipal or regional water supplier are in violation of said contracts or plans, the city or town has the authority to require that the data center cease operation until the violation is corrected.

SECTION 2. The provisions of this law are severable, and if any clause, sentence, paragraph or section of this chapter, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, or application adjudged invalid.

The following registered voters subscribe to the above initiative petition:

Signature _____ Address _____

Signature _____ Address _____

Signature _____ Address _____

Signature _____ Address _____

Signature _____ Address _____