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HEALEY-DRISCOLL ADMINISTRATION STATEMENT OF EXPECTATIONS FOR RESPONSIBLE DATA CENTER DEVELOPMENT AND OPERATIONS IN MASSACHUSETTS

Guidance for data centers seeking sales and use tax exemptions and expectations for broader data center development

OVERVIEW

Data centers present significant economic development opportunities for Massachusetts, including the creation of construction jobs, increased local property tax revenue, and investments in supporting infrastructure. They can also strengthen the Commonwealth's innovation economy by improving digital infrastructure and reducing latency for industries such as biotechnology, finance, defense, and advanced computing. In addition, New England's climate can provide natural efficiency advantages for these energy-intensive facilities.

At the same time, experience from across the country demonstrates that large-scale data center development can create challenges if not carefully planned and managed. Data centers require substantial investments in electric grid infrastructure and power generation resources, which can affect energy affordability and reliability for all energy consumers. Their development also raises climate, environmental, public health, and community concerns, including potential impacts on air quality, water resources, noise levels, and local land use.

Governor Healey's framework establishes principles and expectations for responsible data center development in Massachusetts that balances economic growth and innovation with protections for Massachusetts residents, businesses, and communities.

The framework is intended to provide clarity for data center developers considering projects in Massachusetts on responsible practices, and explicit expectations for those seeking the sales and use tax exemption under Massachusetts law (M.G.L. c. 64H, § 6(zz)). The framework will also be used to guide: (1) executive agencies and municipalities evaluating data center proposals; (2) discussions of executive agencies with the Legislature, municipalities, and others on data center policy; and (3) actions by the Department of Public Utilities (DPU) within its existing authority, including implementation of Executive Order 654.

This framework also supplements, and does not replace, existing state and local siting, permitting, and regulatory requirements. These include, among others: Energy Facilities Siting Board requirements for onsite generation facilities exceeding 25 MW (M.G.L. c.

164, § 69G); Massachusetts Environmental Policy Act (MEPA) review, where applicable; Massachusetts Water Management Act requirements (M.G.L c. 21G); and local zoning, building, traffic, and noise requirements. This framework will also be used as a tool for state agencies to evaluate existing regulations and permitting processes to identify opportunities for additional clarity and alignment with the framework's objectives, recognizing that, in some areas, additional legislative authority is needed.

GUIDANCE AND EXPECTATIONS FOR RESPONSIBLE DEVELOPMENT

Massachusetts energy consumers, communities and residents should not bear the costs or burdens of data center development, operations, or energy and water needs. Instead, they should realize benefits associated with expanded economic opportunity and competitiveness, job creation, strengthened grid and infrastructure reliability, and additional tax revenues at the local level. This means:

- The full cost of energy supply, infrastructure, system upgrades, and interconnection required to serve the facility's total energy is borne by the project and is not shifted to other energy consumers.
- Energy supplies to meet demand come from clean energy sources.
- Development does not result in degraded local grid reliability, increased grid congestion and related prices, or stranded infrastructure cost risks for other customers.
- Host and neighboring communities are not burdened with unfunded infrastructure, or environmental and public health impacts, especially where this may exacerbate the cumulative impact of existing burdens.
- Data center operations do not compromise water supply, availability, or quality for host or neighboring communities, particularly during drought conditions.
- Local businesses and residents will benefit from expanded employment, good paying jobs, commerce, and improvements to their communities.
- Transparency in dealings with communities and reporting.

Additionally, data centers receiving public incentives from the sales and use tax exemption should provide demonstrable public benefits and avoid potential public harms, particularly in the key areas outlined below. The sections below provide examples of pathways to achieving outcomes.

1. Energy Supply ("Bring Your Own Clean Energy")

New data centers should not exacerbate energy supply availability, wholesale energy prices, or greenhouse gas emissions; instead, their development should help accelerate clean energy deployment. Data centers should, therefore, supply or directly procure the energy required to serve their load in a manner consistent with maintaining energy affordability and reliability for all energy consumers and aligned with Massachusetts' climate laws and clean energy requirements. This includes, for example, actions to:

- Bring or fund clean energy generation sufficient to meet 100% of the data center's demand, with it being on-site, or connected or able to deliver into ISO-New England and aligned with the eligibility requirements to qualify under the Clean Energy Standard (310 CMR 7.75).
- Participate, as applicable and allowed, in statewide clean energy procurement mechanisms in coordination with the Department of Energy Resources (DOER).
- Prioritize on-site deployment of clean energy resources.
- Recognizing the potential timing gaps between the deployment of new clean energy generation resources and data center load growth, address ratepayer impacts (e.g., establish a ratepayer protection fund).

2. Energy Efficiency, Flexibility, and System Optimization

New data centers should coordinate with ISO-NE and utilities to ensure that they do not exacerbate transmission and distribution system stress. They should take steps to avoid unnecessary infrastructure expansion and promote overall grid efficiency. Data centers should take steps to operate as grid-supportive resources, including, for example:

- Follow best practices for energy efficient data center design and operations as established by, for example, EPA Energy Star, the International Organization for Standardization, and LEED for Data Centers.
- Participate in available and applicable demand response and load flexibility programs.
- Deploy solar, storage, and advanced energy management systems to mitigate the need for grid capacity expansion.

- Partner, where feasible, with neighboring communities and utilities to form or support networked geothermal systems, microgrids, and Virtual Power Plants (VPPs) or similar distributed energy aggregations that help reduce peak demand, avoid infrastructure expansion, and provide local grid and energy customer benefits.

3. Local Air Quality and Public Health

Host and neighboring communities should not experience increased exposure to harmful air pollutants. Data centers should minimize or mitigate air and noise pollution impacts including, for example:

- Use alternatives to diesel-based backup generation, where technically feasible, including solar and storage, and the use of cleaner alternatives, such as fuel cells.
- Minimize noise and localized air pollution impacts and mitigate cumulative impacts.
- Leverage the MassEnviroScreen to identify and mitigate potential impacts to cumulative burdens.

4. Water Use and Infrastructure Protection

Communities should not face water scarcity and added system or infrastructure costs due to data center operations. Similarly, data center development, siting, and operations should not strain or threaten local or regional water systems or supplies, wastewater systems, or negatively impact water quality or aquatic species and habitat. For example, they should ensure that all operational and related infrastructure costs necessary to serve the facility are borne by the project developer and do not result in increased costs, reduced reliability, or diminished water quality or service levels for existing customers. Project developers should take actions to, for example:

- Demonstrate sufficient water availability and infrastructure capacity without adversely impacting existing users or development plans, and how they will be responsive to drought-related measures.
- Fund or provide water infrastructure upgrades, hazard mitigation investments, or alternative solutions to address the facility's incremental water usage or water quality impacts.
- Implement water-efficient cooling technologies and reuse strategies, including, for example, closed-loop systems that use Best Available Control Technology and wastewater/greywater reuse, where feasible.
- Demonstrate consistency with all applicable Massachusetts water withdrawal requirements, including, for example, the Water Management Act (MGL Chapter 21G), and its mitigation requirements, and Interbasin Transfer Act (MGL Chapter 21, §§ 8B-8D), local water supply permits, and local water resource protection zoning.

- Prevent the introduction of contaminants to drinking water sources and ensure practices do not contribute to the pollutant load to receiving waters or create additional treatment burdens to existing systems.
- Ensure sufficient wastewater treatment capacity and pre-treatment capacity, where needed, so as not to adversely affect the temperature or quality of receiving waters.

5. Responsible Labor Practices and Job Creation

Receiving public incentives should translate into good employment opportunities and workforce benefits for Massachusetts residents. Data center projects should support high-quality jobs, training, and workforce opportunities, including, for example:

- Utilize project labor agreements (PLAs) and/or labor peace agreements.
- Support local hiring, workforce training, and registered apprenticeship programs.
- Ensure safe working conditions and long-term employment opportunities that provide fair wages and benefits for residents of host and surrounding communities.

6. Community Benefit and Engagement

Communities should share in the value created and have a meaningful role in project development, specifically communities hosting data centers. Data centers should be developed and sited in ways that do not exacerbate existing inequities and ensure that community benefits are aligned with host community needs and future plans. Data centers should, for example:

- Ensure early, transparent and ongoing community engagement and communications with residents, neighboring municipalities, regional planning agencies, and similar stakeholders.
- Develop and implement community benefit plans and agreements in collaboration with local stakeholders and aligned with the Standards and Guidelines for Community Benefits Plans and Agreements, as established by the Office of Environmental Justice and Equity within the Executive Office of Energy and Environmental Affairs.
- Utilize tools like MassEnviroScreen to ensure communities living in neighborhoods with historic and current disproportionate social and public health burdens are not further impacted.
- Deliver tangible benefits that exceed required mitigations. This could include local investments, additional infrastructure improvements, and/or community services.

7. Local Economic Development and Innovation Leadership

Economic benefits for communities hosting data centers should extend beyond construction to sustained, broad-based economic development. In some cases, land that is used for data center development could have had other high value use cases. Data center development should also strengthen the Massachusetts economy and enhance the state's innovation leadership including, for example:

- Support local and in-state businesses, such as those that benefit from low-latency computing.
- Contribute to local tax bases and long-term regional economic activity.
- Prioritize partnerships with Massachusetts-based suppliers and industries.
- Attempt to avoid areas designated for other priorities, if feasible, or make investments to mitigate potential economic opportunity costs.

8. Project Transparency

To uphold public trust and demonstrate compliance with these expectations, data center developers should provide the information necessary for state agencies, municipalities, and communities to make informed decisions about development and operations. Regardless of whether a project receives the tax exemption, state agencies, municipalities, and communities should avoid signing non-disclosure agreements. Data centers should publicly disclose information upon permitting and continue reporting on a regular basis, such as:

- Data center location, size, physical footprint, and any reasonably expected expansion of physical footprint or equipment.
- Expected annual and peak energy demand (electric and gas), on-site fossil fuel use, energy and water efficiency measures, annual and peak water consumption, water sourcing, and develop and publicly disclose toxic use reduction and wastewater management plans, including inventories of hazardous substances used, stored, discharged, or transferred off-site.
- Whether a data center has more than one electric grid interconnection request -- either at the distribution or transmission level.
- Anticipated construction and post-construction employment and wages, and supply chain needs and opportunities.
- Independently verify disclosures and include attestations.

EQUITY IN LARGE LOADS AND ENERGY USE

Data centers, regardless of whether they receive the sales and use tax exemption, and other large load customers should be held to similar standards related to DPU regulatory processes and utility tariffs. All large loads should be developed responsibly and in compliance with state climate, clean energy, land use, environmental, equity, and economic opportunity requirements. With regard to energy, specifically, as the DPU implements Executive Order 654's directive to promote the safe and reliable operation of the electric grid with the growth of large commercial customers it should ensure that:

- Regulatory frameworks, tariffs, and cost allocation mechanisms advance reliability and protect ratepayers from costs associated with large load interconnection, stranded investments, and infrastructure, including data centers, generally.
- Regulatory and policy frameworks apply consistently to large load customers, while recognizing differences in scale, operational characteristics, and system impacts.

EXPECTATIONS AND GUIDANCE IN PRACTICE

These projects are expected to bring their own clean energy, avoid shifting or increasing costs to other energy consumers, protect environmental and community health, avoid placing additional environmental and social burdens on already Burdened Areas, and contribute meaningfully to the local and state economy and clean energy goals.

The Executive Offices of Economic Development and Energy and Environmental Affairs will develop and disseminate a resource guide to support municipalities in the potential siting of these data centers in their communities.

All executive agencies will work to implement this guidance as authorized by and consistent with current state law. State agencies will also use this guidance to evaluate existing regulations and permitting processes to identify opportunities for alignment with the framework's objectives, recognizing that, for some areas, additional legislative authority is required.

By establishing these expectations and implementing this guidance, Massachusetts can enable data center growth and continue to advance its innovation leadership, while safeguarding energy affordability and reliability, public and environmental health, and equity and economic opportunity for residents.