DATA CENTER CHECKLIST

Energy, Power & Sustainability

AI-Scale Power, Grid Access, and Regulatory Considerations

HOW TO USE THIS CHECKLIST

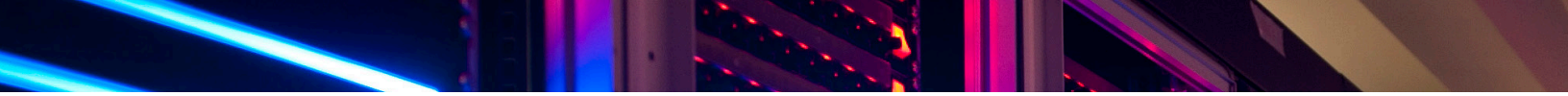
This checklist is designed to help executive teams and in-house counsel identify and manage legal, regulatory, and operational risks related to power sourcing, energy infrastructure, and sustainability obligations for data center projects. It is not intended to be exhaustive or to provide legal advice but rather to highlight issues that can materially affect project feasibility, operating costs, regulatory compliance, and long-term scalability if not addressed early. The questions below are intended to support informed decision-making and coordinated planning across legal, infrastructure, energy, finance, and operational teams.

WHO THIS IS FOR

CEOs, CFOs, COOs, GCs, heads of infrastructure, energy and sustainability leaders, and project sponsors responsible for securing and managing power for data center operations.

01. Power Availability & Grid Interconnection

- ☐ Is sufficient power supply available from the utility to support current and projected AI-scale loads?
- ☐ Does the utility offer (or require use of) a special tariff for large load customers to procure and deliver their own power?
- ☐ Are grid interconnection studies, upgrades, or approvals required before your data center can draw power from the grid? Is your site located within a regional transmission organization or independent system operator (RTO/ISO) such that the grid interconnection process will include additional levels of review and approval?
- ☐ Are utility timelines for grid upgrades and interconnection aligned with development and commissioning schedules for the data center?
- ☐ Are congestion, curtailment, or reliability risks identified?
- ☐ Are co-located power and load feasible, and is behind-the-meter delivery a viable option in that jurisdiction?
- ☐ Does the jurisdiction where your data center is sited require the utility to procure capacity on your project's behalf? How will that be procured and paid for?
- ☐ Does the jurisdiction where your data center is sited offer cost savings where at least some of the data center load is self-supplied on site through a private use network or microgrid (e.g., through interconnection service based on net demand from the grid, or options for transmission service based on net demand or curtailable demand)?



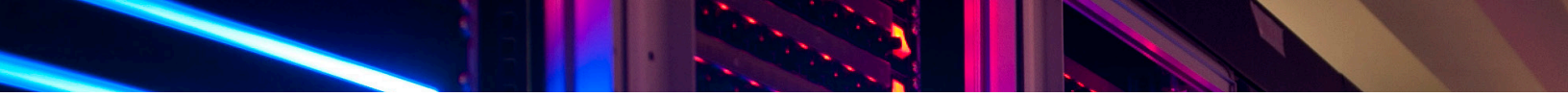
- ☐ Does the jurisdiction where your data center is sited require a certain amount of on-site generation be supplied, or require curtailment of demand in periods of grid emergencies?
- ☐ How will your data center address grid risks from AI loads such as harmonic distortion, voltage drop, or frequency issues caused by fast load ramping? Have you planned enough storage resources on site or adopted software solutions to resolve these issues, and have those plans been accepted by the utility?

WHY IT MATTERS:

Power availability and grid connection are often the primary constraint on hyperscale data center development and expansion.

02. Power Procurement & Contractual Structure

- ☐ Does the jurisdiction where your data center is sited permit sales of electricity to end users by anyone other than the utility, or does the utility have a full monopoly on retail supply service?
- ☐ Do power agreements align with projected load growth and operational requirements? Does the delivery term under your power agreement align with data center lease terms?
- ☐ Are pricing structures, escalation provisions, and termination rights (including where liquidated damages apply) understood?
- ☐ Is your power developer partner offering a mix of generating and storage resources sufficient to ensure desired reliability at the rack level? Especially if you intend to have multiple power developers connect projects to a single microgrid, how will availability be calculated and availability shortfalls or delivery failures be compensated?
- ☐ Are you financing the data center project? Is your power developer partner financing the power resources? Have the parties fully evaluated credit support requirements and investment grade guarantees?
- ☐ Has your power developer partner committed to a guaranteed commercial operation date that supports your project development timeline? What terms for delay—whether excused or with payment of delay damages—are in the offtake agreement and how does that affect certainty on timing?
- ☐ Is your power developer partner also providing project substations or microgrid facilities necessary to operate the data center? Does the offtake agreement appropriately address in-service timing for those facilities?
- ☐ What is required to fully commission the on-site power resources? What coordination is required between the data center load ramp and the power project for test energy purposes?
- ☐ Are change-of-law (such as tariff and tax credit risks) and regulatory risk allocations addressed?
- ☐ How are shortfalls in delivered energy or capacity addressed? What happens during a sustained outage?



- ☐ How does the offtake agreement address the risk of default by either party and resulting stranded assets during any period where the projects are not grid connected? Similarly, how does the offtake agreement allocate risk of development failure?
- ☐ Does the power offtake structure proposed by your power developer partner present accounting issues for your company (e.g., lease accounting or derivative accounting for the offtake agreement)?

WHY IT MATTERS:

Poorly structured power agreements can undermine cost predictability, reliability, and financing assumptions and result in extended delays to compute availability as well as stranded assets.

03. Renewable Energy & Sustainability Commitments

- ☐ Are renewable energy targets or sustainability commitments applicable to the project?
- ☐ Do renewable procurement mechanisms comply with applicable regulations?
- ☐ Are environmental attributes, credits, or certificates clearly addressed, and both risks and benefits allocated, contractually?
- ☐ Are climate and sustainability claims supportable and defensible?
- ☐ If tax credits are part of the value stack for the transaction, has the value of those tax credits been clearly allocated in the offtake agreement and are recapture risks appropriately addressed?

WHY IT MATTERS:

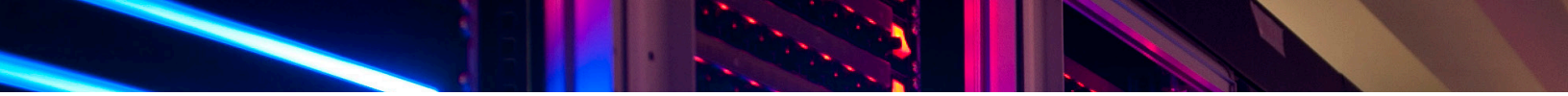
Sustainability commitments carry legal, regulatory, and reputational risk if not carefully managed.

04. Water Usage, Cooling & Environmental Constraints

- ☐ Are water requirements for cooling identified and sustainable at scale?
- ☐ Do state and local regulations limit water use?
- ☐ Are water rights, permits, or approvals required?
- ☐ Are alternative cooling technologies evaluated?
- ☐ Are environmental impact obligations identified?

WHY IT MATTERS:

Water availability and environmental constraints increasingly affect site viability and public acceptance.



05. Regulatory & Permitting Requirements

- ☐ Are federal, state, or local permits required for energy infrastructure or operations?
- ☐ Have utility, energy, and environmental regulators been consulted?
- ☐ How will you and your power developer partner coordinate on community engagement related to the projects? What permitting or land use approvals will be required for each project and how are these risks being managed?
- ☐ Do Native American tribes or First Nations have interests that would be affected and, if so, have they been consulted?
- ☐ Are permitting timelines aligned with development schedules?
- ☐ Are compliance obligations documented and tracked?
- ☐ If your project is connected to the grid and the offtake agreement contemplates that you may sell excess energy into the grid markets, have you secured the necessary regulatory approvals from the Federal Energy Regulatory Commission?

WHY IT MATTERS:

Regulatory requirements and permit approvals can affect both timing and operational flexibility. Failure to procure required regulatory permits can expose the company to costly compliance risk.

06. Resilience, Redundancy & Continuity Planning

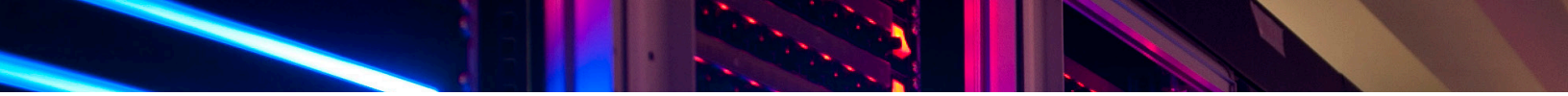
- ☐ Are backup power and redundancy requirements defined and tested?
- ☐ Are resilience strategies aligned with AI workload criticality?
- ☐ Are fuel sourcing and backup systems reliable under stress scenarios?
- ☐ Are continuity plans reviewed regularly?

WHY IT MATTERS:

AI workloads magnify the operational impact of power disruptions.

07. Cost Management & Financial Exposure

- ☐ Are energy costs modeled accurately over the project lifecycle?
- ☐ Are exposure to price volatility and regulatory changes understood?
- ☐ Are energy-related risks disclosed to lenders and investors as required?



- ☐ If your on-site generating resources require fuel to operate, is your power developer partner's fuel procurement strategy fully understood? How are fuel costs passed on to the data center customer and what opportunities for aligning incentives on cost containment exist?
- ☐ Are mitigation strategies in place?

WHY IT MATTERS:

Energy costs are a significant driver of long-term operating and financing risk.

08. Reporting, Disclosure & Stakeholder Expectations

- ☐ Are energy and sustainability reporting obligations identified?
- ☐ Are disclosures consistent with operational realities and contractual commitments?
- ☐ Are internal controls in place to support reporting accuracy?
- ☐ Are stakeholder expectations aligned with regulatory requirements?

WHY IT MATTERS:

Inaccurate or inconsistent disclosures can create regulatory and reputational exposure.

When To Call Us

YOU SHOULD INVOLVE US EARLY IF:

- Power availability or grid access is uncertain or constrained
- Power procurement strategies are complex or evolving
- Your data center will be primarily powered by on-site power supply in whole or in part
- Renewable energy or sustainability commitments are material to the project
- Water usage or environmental constraints may affect operations
- Energy regulatory approvals could affect timelines or costs
- Energy risk is central to financing or investment decisions

We help clients structure energy strategies, manage regulatory and contractual risk, and support scalable, compliant power solutions for AI-driven data center operations.

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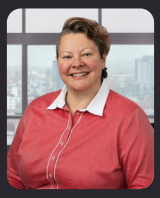

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For additional resources, visit: perkinscoie.com/datacenterhub.

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