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Energy Update

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New York Hits Pause on Hyperscale Data Centers: What Executive Order No. 62 Means for Developers

On July 14, 2026, New York Governor Kathy Hochul issued Executive Order No. 62, imposing the nation's first statewide moratorium, lasting up to one year, on the construction of new hyperscale data centers, generally defined as facilities with loads of **50 megawatts or greater.**

The Order cites concerns over electric reliability, rising consumer utility costs, grid capacity constraints, freshwater consumption, and broader environmental impacts associated with rapidly growing AI infrastructure.

The Order is significant not simply because it pauses development, but because it reframes a fundamental policy question: **Who should bear the costs of AI-driven infrastructure expansion—the public or the developers who create the demand?** That question is increasingly likely to shape data center regulation well beyond New York.

Key Takeaways

- **New York introduces meaningful regulatory uncertainty.** While temporary, the moratorium creates uncertainty for hyperscale developers evaluating New York projects and may slow related economic development. Delayed projects could also increase congestion in interconnection queues once New York resumes permitting.
- **Legal challenges are likely.** Although no legal challenge has yet been filed, the Order raises issues involving vested property rights, contractual obligations, permit applications already under review, and the scope of executive authority. The ultimate regulatory framework may therefore depend as much on the courts as on the administrative process.
- **Environmental engagement is now a business strategy, not simply a permitting exercise.** Community outreach and environmental planning can no longer be treated as "check-the-box" requirements. Developers that proactively address concerns over energy consumption, water use, and local impacts, and look more generally to see how they can help the affected community and boost local skills and employment, will be better positioned to secure approvals and reduce project risk.
- **Infrastructure partnerships will become increasingly important.** Successfully developing large-load projects will require closer collaboration among utilities, regulators, engineers, lenders, legal advisors, and developers to navigate evolving technical and regulatory requirements.
- **New York may become a model for other states.** While this is the first statewide moratorium of its kind, policymakers nationwide are confronting many of the same challenges associated with rapidly growing AI infrastructure. Elements of Executive Order No. 62, including cost allocation, environmental review, and large-load planning, could influence future state legislation and regulation.

What Executive Order No. 62 Does

Executive Order No. 62 directs the **New York Department of Public Service (DPS)** to initiate a proceeding within **60 days** to evaluate the impacts of large data centers connecting to New York's electric distribution system.

As part of that proceeding, DPS will solicit public comment and work with the **Department of Environmental Conservation (DEC)** to prepare a **Final Generic Environmental Impact Statement (FGEIS)** evaluating impacts on:

- electric infrastructure
- water resources
- air quality
- community health

Pending completion of that review, DEC will pause the issuance of discretionary permits for new hyperscale data centers subject to the Order.

The Executive Order also directs state agencies to:

- Evaluate creation of a **New York Grid Acceleration Fund,** under which developers could be required to contribute toward transmission and distribution upgrades, clean energy procurement, demand response programs, and stranded-asset protections.
- Establish a **Data Center Interconnection Working Group** within 60 days to review large-load interconnection practices and report recommendations to the Public Service Commission within 90 days.
- Develop guidance for local governments on negotiating community benefits agreements with data center developers, including infrastructure investments, labor standards, transparency measures, and community investment commitments.
- Assess within 12 months whether New York's existing water regulations adequately address hyperscale data center development.

What the Executive Order Does Not Do

The Order should not be read as signaling the end of large-scale data center development in New York.

Among its important limitations:

- It **does not affect permits already issued** by New York State.
- It **does not apply to federal or local permits.**
- The moratorium contains **exceptions,** including certain research, educational, and health care facilities, as well as projects below the applicable load threshold.
- Local governments across the country have already adopted various restrictions on data center development, making New York's statewide approach novel in scope rather than concept.
- Compared to major data center markets such as Virginia and Texas, New York currently hosts relatively few hyperscale facilities, meaning developers continue to have ample regional alternatives.

Looking Ahead

Executive Order No. 62 is best viewed **as a pause rather than a prohibition.** More importantly, it reflects a broader regulatory shift: many states are moving away from asking *whether* hyperscale data centers should be built and toward determining *under what conditions, and at whose expense, they should connect to the grid.*

Other states confronting pressures on their grids and resources are watching closely: a number of them may look to the New York model in establishing their own frameworks.

FOR MORE INFORMATION

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