

Sectors in focus

HOW TO PRICE GRID UNCERTAINTY IN DATA CENTER ENERGY CONTRACTS

Sep 09, 2026

The scale of the data center power problem is significant. The International Energy Agency (IEA) estimated global data center electricity consumption at around 415 terawatt-hours in 2024. This is expected to rise to around 945 terawatt-hours by 2030. Developers consistently identify electricity connection availability and delay as the primary obstacle to project delivery, with grid connection queues stretching for years for otherwise viable projects.

This creates a wide spectrum of risk between an "accepted offer" and an "energised connection", and investors are increasingly stress-testing exactly where on that spectrum a project sits before committing capital. Reinforcement dependencies, milestone conditions, security requirements and capacity terms can all materially change the timeline and cost of energisation after an offer has been accepted.

Decoding connection offers

The legal and technical diligence on any connection offer should specifically interrogate:

- The connection date itself, and whether it is firm, conditional, phased or subject to reinforcement works outside the developer's control.
- The allocation, timing and potential escalation of upgrade or reinforcement costs.
- Milestone and security obligations attached to the offer, and the consequences of failing to meet them.
- Curtailable capacity terms, and how they would affect actual usable capacity and uptime commitments to tenants.
- Rights of recourse and mitigants available if the connection application outcome is adverse, including the realistic prospect, timeline and cost of alternative routes.

What grid uncertainty means for deals

A handful of mechanisms are becoming standard practice for allocating power risk.

Cost allocation is becoming a political as well as a contractual issue. Governments and regulators are increasingly asking whether data center developers should bear the cost of the generation and network infrastructure required to serve them, rather than transferring those costs to other electricity customers. In the US, the 2026 Ratepayer Protection Pledge commits participating hyperscalers and AI companies to procure the generation they require, pay for associated power-delivery upgrades and negotiate separate utility rate structures.

Staged and contingent consideration

Fixed purchase prices are giving way to tranching payments released against milestones such as signing, accepted offer, firm connection date and energisation, so a buyer is not paying full value for risk that has not yet been retired.

Financing conditionality

Lenders increasingly require a firm connection date, not just an accepted offer, before committing capital, with drawdown milestones and reserve accounts built in to absorb reinforcement cost overruns.

Contract drafting. Longstop dates tied to energisation events rather than fixed calendar dates, conditions precedent linked to specific grid milestones, and step-in or walk-away rights if a connection slips beyond an agreed threshold are becoming standard risk-allocation tools.

Scenario and probability-weighted modelling. Sophisticated buyers model realistic reinforcement, curtailment and delay scenarios into valuation, and price alternative power routes as a hedge that reduces sensitivity to grid timing altogether.

Grid reform

In the UK, grid queue positions are being reprioritised and projects increasingly need to demonstrate genuine progress such as site control and planning maturity. In the US, the Federal Energy Regulatory Commission (FERC) recently directed regional grid operators to justify or reform the rules governing how large loads connect to the grid. In the EU, there is no single queue model. France combines a comparatively low-carbon generation mix with network and permitting constraints that remain site-specific. Germany combines local grid availability and municipal planning with data center-specific efficiency and heat-reuse requirements.

Grid reform is also becoming a test of project credibility. In Great Britain, demand connection applications rose from 41GW to 125GW in under a year, with data centers accounting for at least 80GW. Ofgem is consulting on a refundable commitment fee and data center-specific progress

milestones intended to prevent speculative projects from reserving scarce capacity and delaying viable developments.

Connection reform processes underway globally are intended to reduce queue congestion and prioritise strategically important projects. However, the timing, scope and ultimate impact of these reforms remain uncertain, and they will not address the underlying issue of a patchwork of global grid regulations. A global strategy requires local support.

How BCLP can support you across the data center lifecycle

We help clients compete where others cannot, bringing global insight to the legal challenges of next-generation digital infrastructure. We understand the unique complexities and commercial drivers of the sector, and look at the whole asset so you can maximise value. Our seamless coverage across real estate, planning, energy, construction, finance, tax, regulatory, data and disputes helps you connect the dots across the data center lifecycle.

Related capabilities

- Data Centers

Meet the team



Tim Cline

Partner, St. Louis

tim.cline@bclplaw.com

[+1 314 259 2238](tel:+13142592238)



Erin L. Brooks

Office Managing Partner - Chicago,
Chicago / St. Louis

erin.brooks@bclplaw.com

[+1 312 602 5093](tel:+13126025093)



Mark Richards

Partner and Regional Practice Group
Leader - Energy, Environment and
Infrastructure, London

mark.richards@bclplaw.com

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be "Attorney Advertising" under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP's principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.