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Large Load Interconnection: Some Legal and Policy Issues

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Introduction: The Challenge

Forecasts of growth in electricity consumption ("load") across the United States are increasing remarkably. In just over the last few years, those forecasts have doubled and tripled.[2] Much of that growth is attributable to large loads, such as data centers, cryptocurrency mining operations, and other heavy-computing installations, which the President has declared vital to American national security and economic competitiveness.[3] Both large energy companies and load developers have made the same point, arguing that "interconnection of new large loads represents a foundational element of the United States' economic prosperity and national security"[4] and that "continued development of data centers here in the United States [is] a strategic economic and national security imperative."[5] But at the same time, many existing power generation facilities are retiring. And the timeline to site, permit, and build transmission facilities has not appreciably shortened. Nor have transmission and distribution costs decreased. The developers of large load installations see an opportunity to maximize returns via speed to market and avoidance of all avoidable costs. But resource inadequacy, regulatory processes, and sometimes-conflicting stakeholder objectives can all stand in the way of speedy connection of large load facilities. Hence, it is no surprise that this has all created keen interest in how to address the forecasted supply-demand imbalance and has sharpened the financial and policy differences among various industry participants. This paper will examine some of the drivers of the imbalance, some policy response options, legal issues, and proposed alleviators or solutions.

Drivers of the Forecasted Supply-Demand Imbalance

Electrical infrastructure design, development, and construction is time- and capital-intensive, making load forecasts a key tool for successful electrical grid and market planning. The recent explosion in artificial intelligence use is fueling intense activity by heavy-computing companies like Google, Amazon, and others to push data center and computing

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[1] Author: Bill Moore, attorney, Butler Snow LLP. The views, analyses, and interpretations presented herein are attributable solely to the author personally, and must not be represented as the views, analyses, or interpretations of Butler Snow LLP or any of its clients.

[2] "Virginia Legislators Introduce Bills to Deal with Data Center Growth", *RTO Insider* (Jan. 14, 2025) (reporting that by one observer's estimation, "unconstrained growth of data centers could lead to peak demand of 60 GW by 2050, which is nearly three times its current peak of 22 GW").

[3] "Executive Order on Advancing United States Leadership in Artificial Intelligence Infrastructure." The White House (Jan. 14, 2025) (hereafter "AI Executive Order") ("Recent advancements in AI demonstrate its rapidly growing relevance to national security . . . . Advances at the frontier of AI will also have significant implications for United States economic competitiveness. These imperatives require building AI infrastructure in the United States on the time frame needed to ensure United States leadership over competitors . . . .").

[4] Post-Conference Comments of Vistra Corp., *Large Loads Co-Located at Generating Facilities*, FERC Docket No. AD24-11-000 (the "*Co-Location Technical Conference*"), at 5 (Dec. 9, 2024).

[5] Post-Technical Conference Comments of Google LLC, *Co-Location Technical Conference*, at 1 (Dec. 10, 2024).

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