WILSON SONSINI

AI and Data Center Infrastructure

HIGHLIGHTS

AI and Data Centers: The Infrastructure of the 21st Century

With our deep roots in Silicon Valley, Wilson Sonsini has always been at the forefront of the digital revolution: chip-making, computing, data centers, social media, machine learning, and artificial intelligence (AI) development. We understand the infrastructure, economics, and transactions supporting data center development and operations, from advising on commercial structuring and regulatory matters to drafting energy procurement agreements.

Advising the Innovators Who Develop and Power Data Centers

Wilson Sonsini represents many of the leading independent power producers and data center developers. We partner with these clients to structure and negotiate complex commercial and finance transactions in order to power data centers with clean power.

Helping Clients Open Markets and Close Deals

The firm advises independent power producers, energy project developers, data center developers, retail electric suppliers, distributed energy companies, and technology companies on market-opening energy regulatory matters at the federal and state levels. We also assist data center developers, utility-scale renewable developers, tech companies, retail electric suppliers, and distributed energy companies in navigating novel commercial, financing, and regulatory challenges, helping them to capitalize on a once-in-a-generation opportunity to support a more resilient and sustainable energy future while meeting the demands of Big Data.

OVERVIEW

The world currently generates an estimated 2.5 quintillion bytes of data every day. Most data in existence today—around 90 percent—has been created within the past decade. By 2030, global data is expected to grow exponentially to more than 10 times its present volume. Because data is created from electrons, advances in technology such as machine learning and AI, cloud computing, and cryptocurrency mining are driving corresponding growth in the electric power needs of data centers. U.S. load growth is estimated by some to exceed 3 percent to 6 percent annually for the next five years, a rate not seen since the 1960s.

Our electric grid, interconnection processes, and generation base are insufficient to meet this demand. Navigating this situation to build, or supply energy to, a data center therefore requires keen commercial knowledge and creativity, sophisticated regulatory advocacy unencumbered by conflicts created by utilities protecting monopolistic positions, and a strategic legal partner that can navigate emerging regulatory challenges and engage with new and incumbent players across the power value chain. The energy and client solutions team at Wilson Sonsini has led the development of the corporate and data center energy market for 15 years and is highly qualified to help clients pushing for the next advances.

Data Center Development and Energy: Our Core Competencies and Expertise

From the very earliest data center power supply deals to the innovative behind-the-meter co-location arrangements of recent years, we have advised independent power producers, data center developers, and tech companies on their most cutting-edge data center energy matters.

Starting in 2009, we provided strategic counsel to Google and Amazon as they moved from price takers to market makers, and we have represented—and been opposite—Google, Amazon, Microsoft, Apple, Meta, and Salesforce in the most novel clean energy deals across the U.S. energy grid.

Our early work in this area focused on data center owners and market platform creators because they were the parties opening the market and were most in need of our tailored, strategic, and cost-effective legal services. Today, we represent a balanced client base, including many of the leading energy project developers, sponsors, and owners. Our work includes the full range of physical power deals, virtual power purchase agreements, sleeving arrangements, and behind-the-meter structures in energy transactions involving big data, hyperscale, and crypto mining data centers. The Wilson Sonsini team regularly supports clients as lead counsel on data center transactions, with responsibility for all deal documents, including:

- Power purchase agreements, sleeving arrangements, and VPPAs
- Shared facilities and co-tenancy agreements governing joint use of interconnection facilities and other electrical infrastructure
- Retail service, security, and netting agreements
- QSE, REP, SC, and MP agreements
- Real property agreements
- Hosting and leasing of computing power
- Energy regulatory analysis to support novel transaction structures
- Federal and state regulatory advocacy to shape market rules and support transactions and business models that allow buyers and sellers to transact despite utility resistance

Related Practice Areas and Services

Over the last 15 years, we have built our Data Center practice by providing regulatory, transactional, and project financing support to develop and de-risk data center projects. Our ability to close data center deals—many of them first-of-their-kind deals—and to bring data center projects online is guided by the firm's 60-plus-year history of helping innovative and disruptive companies resolve barriers to new business models.

Our significant experience with data center transactions is the natural outgrowth of Wilson Sonsini's close ties to Silicon Valley and our decades of experience developing energy generation projects and structuring groundbreaking solutions for clients whose commercial goals are otherwise limited by inadequate electric transmission capacity and recalcitrant incumbent utilities.

We offer data center clients an exceptional understanding of the financial, regulatory, and industry environments based on our many years of work in the following practice areas and industries:

- Energy and Climate Solutions
- Clean Energy
- Climate and Clean Technologies
- Decarbonization Strategies
- Energy Regulation and Competition
- Project Development and Transactions
- Project Finance and Tax Equity
- Sustainability and Decarbonization
- Transportation Electrification
- Emerging Companies and Venture Capital
- Technology Transactions
- Finance and Structured Finance

REPRESENTATIVE DATA CENTER MATTERS

- Represented Google Energy in obtaining its market-based rate authority from FERC and its first wind energy PPA
- Represented Amazon Energy in obtaining its market-based rate authority from FERC and Amazon Web Services in the first of several VPPAs, most of which were in PJM, that aggregated over 300 MW
- Represented buyers and sellers in successfully negotiating over 4,000 MW of virtual power purchase agreements, many of which were in service of the decarbonization goals of data-intensive buyers
- Advised Hut 8 on energy supply transactions for a 205 MW data center located behind-the-meter of an existing wind generation facility in West Texas
- Represented blockchain technology company Blockstream in the development of a >100 MW data center and the negotiation of a behind-the-meter offtake with a utility located in ERCOT
- Represented Quinbrook Infrastructure Partners in the development of a 200 MW Temple Data Center (in ERCOT) and associated acquisition of Rowan Green Data (the original developer)
- Advised a major independent power producer on regulatory issues and negotiation of transaction with a >100 MW data center located behind-the-meter of the client's existing wind generation facility in ERCOT
- Represented Kairos Power on an agreement with Google creating a path to deploy a U.S. fleet of advanced nuclear power projects totaling 500 MW by 2035

- Advised on first-of-a-kind development and financing of a floating data center in California, including novel power procurement arrangements, for Nautilus Data Technologies
- Represented international blockchain technology and fintech company EBANG with strong application-specific integrated circuit (ASIC) chip design capability in developing a series of data-processing centers in the U.S.
- Represented Altenex (now Edison Energy), Three Degrees, Level Ten Energy, and Satoshi Energy with respect to their various and groundbreaking VPPA and behind-the-meter data center market assessment, brokerage, arrangement and advising businesses
- Advised a large tech company on regulatory and commercial issues related to the development of a data center with transmission-level interconnection in MISO
- Advised the developer of a new 300+ MW natural gas cogeneration project with CCUS on a combination behind-the-meter industrial load off-take and front-of-meter data center load off-take in MISO
- Represent the nation's largest competitive power generator in numerous FERC proceedings on market rules and policies concerning the co-location of data centers with generation facilities