

Power and Utilities Policy 2026 Preview

Data Center Squeeze

The Coming Political Debate
Over Data Center
Development

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Power & Utilities Policy 2026 Preview:

THE BOTTOM LINE

Capstone believes tension between states, electric utilities, and the Trump administration over data center development, affordability, and grid reliability will define policy debates in 2026, creating uncertainty for project development across energy and digital infrastructure. However, certain states, such as Texas and Pennsylvania, will improve regulatory certainty through new rate structures, with utilities likely to benefit.

- ▶ **FERC POLICY TO ACCELERATE**
LARGE LOADS LIKELY TO FALTER DUE
TO UTILITY AND STATE OPPOSITION;
POSITIVE FOR UTILITIES, POTENTIAL
HEADWINDS FOR IPPS
- ▶ **TRUMP ADMIN, CONGRESS LIKELY**
TO PRIORITIZE FUNDING FOR NUCLEAR
POWER GENERATION, GEOTHERMAL, AND
ELECTRIC TRANSMISSION PROJECTS
- ▶ **EPA TO CONTINUE** WITH
REGULATORY ROLLBACK TO BENEFIT DATA
CENTERS, THERMAL POWER GENERATION
- ▶ **PJM STATE GOVERNORS UNLIKELY**
TO EXIT MARKET DESPITE HIGH PRICES;
WILL PUSH FOR PRICE STABILITY, MAJOR
MARKET REFORMS UNLIKELY IN 2026
- ▶ **BIPARTISAN PERMITTING REFORM**
DISCUSSIONS LIKELY TO CONTINUE,
NEXT WINDOW OF OPPORTUNITY FOR
PASSAGE END OF 2026
- ▶ **RENEWABLES LIKELY TO BE SPARED**
BY TEXAS POLICYMAKERS AND ERCOT IN
UPCOMING FIRMING RULES; POSITIVE FOR
CLEARWAY ENERGY, TESLA
- ▶ **MOMENTUM TOWARD AN**
INTEGRATED WESTERN POWER MARKET
WILL BENEFIT RENEWABLE ENERGY
DEVELOPERS AND POWER UTILITIES
- ▶ **NORTHEAST GRID OPERATORS**
TO INCREASINGLY SUPPORT
DISPATCHABLE GENERATION, POTENTIAL
THERMAL RESTARTS
- ▶ **STATE POLICYMAKERS WILL**
INCREASINGLY TARGET CLIMATE POLICIES
AND UTILITY EARNINGS TO ADDRESS
AFFORDABILITY CONCERN
- ▶ **NEW STATE-LEVEL**
LARGE LOAD TARIFFS FOR DATA
CENTERS EMERGE AMID FEDERAL
REGULATORY UNCERTAINTY, DRIVING
UTILITY TAILWINDS

FERC Policy to Accelerate Large Loads Likely to Falter Due to Utility and State Opposition; Positive for Utilities, Potential Headwinds for IPPs

Winners	Utilities: American Electric Power Company Inc. (AEP), Exelon Corp. (EXC), Southern Company (SO), Entergy Corp. (ETR)
Losers	IPPs: Vistra Corp. (VST), NRG Energy Inc. (NRG), Talen Energy Corp. (TLN)

OPPOSITION TO THE DEPARTMENT OF ENERGY DIRECTIVE TO EXPEDITE DATA CENTER INTERCONNECTION

Capstone believes the Advanced Notice of Proposed Rulemaking (ANOPR) sent by US Department of Energy (DOE) Secretary Chris Wright to the Federal Energy Regulatory Commission (FERC) on October 23rd to expedite the interconnection of 20+ MW loads, such as data centers, creates uncertainty for existing state regulations. We expect opposition from states and utilities to soften the proposal, reducing the favorability for independent power producers (IPPs).

Although the DOE's proposal aims to reduce

regulatory friction delaying data center interconnection, 20 states have already adopted or proposed their own frameworks. A prescriptive federal rule could upend these frameworks, creating uncertainty for data centers, IPPs, and utilities operating under state-directed interconnection processes.

Notably, the DOE's ANOPR directs FERC to: (1) Assert federal jurisdiction over large load interconnections (20 MW or greater) at the transmission level; (2) Create new standardized interconnection rules, including study deposit and readiness requirements; (3) Expedite approval timelines to 60 days for load-side interconnections when applicants offset demand through new supply or load flexibility; and (4) Allow new loads to contract directly with existing generators—including nuclear plants—via hybrid arrangements under specified conditions.

Bipartisan lawmakers, state regulators, and utilities are expressing concern about the DOE's ANOPR, given that large load interconnection has historically fallen under state jurisdiction. The National Association of Regulatory Utility Commissioners adopted [Resolution EL-1](#), urging FERC to revise the proposal. This sentiment was echoed in letters from Chair Mike Lee (R-UT) of the Senate Committee on Energy and Natural Resources, Senator Martin Heinrich (D-NM), the South Dakota Public Utilities Commission (PUC), and the Georgia Public Service Commission (PSC).

Given the uncertain downstream implications for state regulations, we believe FERC will soften the DOE's directive by adopting a principle-based

framework that preserves state jurisdiction while still streamlining interconnections. FERC is accepting comments on the ANOPR until December 5th. The DOE has requested final action by April 30, 2026. We expect the final rule will

retreat from two key DOE proposals: first, FERC asserting direct authority over large load interconnections, and second, data centers to self-fund grid upgrades. This outcome reflects opposition from utilities and state regulators.

Trump Admin, Congress Likely to Prioritize Funding for Nuclear Power Generation, Geothermal, and Electric Transmission Projects

Winners	Nuclear, Geothermal, and Utilities: NuScale Power Corp. (SMR), Talen Energy Corp. (TLN), GE Vernova Inc. (GEV), Centrus Energy Corp. (LEU), Cameco Corp. (CCJ), Ormat Technologies Inc. (ORA), American Electric Power Company Inc. (AEP)
Losers	Renewables: First Solar Inc. (FSLR), Clearway Energy Inc. (CWEN)

Capstone believes the Trump administration will continue to use existing federal resources to support politically favored technologies: nuclear, geothermal, and electric transmission infrastructure. The DOE's Loan Programs Office (LPO) is likely to continue finalizing Biden-era conditional commitments that meet the current administration's preferences, while projects benefiting renewables are less likely to move forward. Additionally, DOE is expected to

continue terminating grants awarded by the previous administration. However, we believe moderate congressional Republicans will stave off the worst-case scenario for Biden-era recipients.

Additionally, the DOE will advance its "Speed to Power" initiative, which aims to use LPO and other offices to accelerate large-scale power generation and transmission infrastructure for data centers. We expect the Trump administration to repurpose funding from terminated awards toward this initiative and other programs the administration views as critical to US energy dominance and artificial intelligence competitiveness with China.

Beyond administrative actions, we will assess the likelihood that congressional Republicans will authorize additional federal resources to expand the domestic nuclear industry. The DOE has signaled its intent to own 10 large reactors through the US-Japan trade deal. However, explicit congressional authorization will be required for direct government procurement—either through annual appropriations or new mechanisms such as a sovereign wealth fund.

EPA to Continue With Regulatory Rollback to Benefit Data Centers, Thermal Power Generation

Winners	Vistra Corp. (VST), Talen Energy Corp. (TLN), Meta Platforms Inc. (META), Microsoft Corp. (MSFT), Amazon.com Inc. (AMZN), Alphabet Inc. (GOOGL), NRG Energy Inc. (NRG), GE Vernova Inc. (GEV), Exelon Corp. (EXC), American Electric Power Company Inc. (AEP), PPL Corp. (PPL)
Losers	First Solar Inc. (FSLR), Clearway Energy Inc. (CWEN)

extending compliance timelines and reducing costs in the interim. We expect the Trump administration to frame much of its effort to roll back regulations on power plants as supporting data center buildout and power availability—priorities it has emphasized.

We also expect EPA to take additional action on the “50-hour rule” for backup generation, which is likely to be positive for data centers. EPA issued guidance on the matter in May 2025, but we expect them to follow this by initiating a formal rulemaking in 2026.

In the first months of 2025, the Environmental Protection Agency (EPA) initiated a deregulatory agenda to roll back regulations or push out compliance timelines across a range of sectors, including the power sector. The EPA has already initiated four major deregulatory actions: (1) repealing the Biden-era greenhouse gas emissions rule for power plants; (2) revising the Good Neighbor Plan for cross-state ozone emissions; (3) proposing to extend compliance timelines for coal combustion residuals (coal ash); (4) delaying steam Effluent Limitation Guidelines.

In 2026, Capstone expects the EPA to publish final rules based on many of these proposals and to begin defending them in court. The rules will support incumbent coal and gas generation by

Bipartisan Permitting Reform Discussions Likely to Continue, Next Window of Opportunity for Passage End of 2026

Winners	NextDecade Corp. (NEXT), Williams Companies Inc. (WMB), Venture Global Inc. (VG), Energy Transfer LP (ET), MasTec (MTZ), Emcor Group Inc. (EME), AECOM (ACM), Dycom Industries Inc. (DY)
Losers	N/A

Capstone believes bipartisan consensus on permitting reform exists, but congressional gridlock and electoral politics will prevent meaningful National Environmental Policy Act (NEPA) and Clean Water Act (CWA) reform through 2026. In 2025, committees in the House of Representatives proposed and passed legislation addressing these topics, including the Streamlined Permitting and Environmental Efficiency Deployment (SPEED) Act and the Preventing Excessive Delays in Environmental Reviews (PERMIT) Act. However, the Senate has not produced companion legislation. Action by the Senate Committee on Environment and Public Works will be critical as it holds jurisdiction over environmental laws.

Our prediction that Congress is unlikely to act before the end of 2026 reflects timing constraints and the congressional calendar: first, the October–November 2025 government shutdown paused most legislation unrelated to government funding, eliminating any possibility of a bill

passing before the end of 2025. Looking ahead to 2026, the looming campaign season before the midterm elections set a spring 2026 deadline for accomplishing most legislative priorities. Capstone believes Congress is unlikely to reach a compromise on permitting reform by spring 2026 due to Senate delays and the difficulty of reaching an enduring agreement on these challenging topics. Additionally, Democrats' strong performance in the November 2025 elections has raised expectations for the 2026 midterms, reducing Democrats' incentive to negotiate from a position of minority status. We believe that the end of 2026 (after the midterm elections) is the next real window of opportunity for a bill to pass.

PJM State Governors Unlikely to Exit Market Despite High Prices; Will Push for Price Stability; Major Market Reforms Unlikely in 2026

Winners	Utilities: American Electric Power Company Inc. (AEP), Exelon Corp. (EXC), PPL Corp. (PPL) IPPs: Vistra Corp. (VST), NRG Energy Inc. (NRG), Talen Energy Corp. (TLN)
Losers	N/A

Capstone views call from state governors in the PJM market to consider leaving the capacity market—or the regional market altogether—as political posturing. Although we expect this rhetoric to continue, we believe the focus will be on securing price stability and attracting data centers to the state. Exiting PJM would require a member state to form a new single- or multi-state Regional Transmission Organization (RTO), join an existing RTO such as Midcontinent Independent System Operator (MISO) or New York Independent System Operator (NYISO), or fully re-regulate its electricity markets to re-establish integrated resource planning.

While we expect to see continued rhetoric and the introduction of study bills (as we've seen in Illinois) or their passage (as we've seen in [New Jersey](#)), ultimately, we believe any studies would demonstrate that the costs outweigh the benefits. Reregulation is an uphill battle, as seen in the past few legislative sessions, when utilities

have attempted to leverage energy affordability and supply-and-demand concerns to advocate for owning generation.

We expect PJM's Critical Issue Fast Path (CIFP) proposal to roll out in early 2026 after FERC approval, delivering near-term relief through four mechanisms: extending the capacity price collar for the 28/29 auction, creating joint interconnection fast paths (PJM-overseen for generators, state-overseen for large loads), expanding limited demand response programs, and refining load forecasting. These incremental fixes should ease current capacity market pressures as stakeholders evaluate longer-term solutions. However, we do not expect structural reforms to gain momentum in 2026. Proposals to exit the capacity market entirely, bifurcate auctions between new and existing resources, or pursue other major restructuring face significant political and coordination barriers.

We believe these incremental changes will be positive for PJM utilities such as PPL, EXC, and AEP, which are aiming to expand their rate base through capital expenditures needed to support the integration of large loads such as data centers. On the other hand, we view the maintenance of existing market mechanisms (e.g., PJM's Base Residual Auction) as positive for IPPs. We believe a short-term extension of the capacity price collar provides price stability and developer certainty while maintaining sufficiently high prices to compensate for existing generation.

Renewables Likely to be Spared by Texas Policymakers and ERCOT in Upcoming Firming Rules; Positive for Clearway Energy, Tesla

Winners	Clearway Energy Inc. (CWEN), Tesla Inc. (TSLA), Vistra Corp. (VST), NRG Energy Inc. (NRG)
Losers	N/A

reliability during high-risk events. Thermal generators, particularly independent power producers such as Vistra and NRG Energy, are cushioned from the impact of firming requirements, as thermals are inherently dispatchable and more likely to meet seasonal reliability thresholds without additional investment.

Capstone expects the Public Utility Commission of Texas (PUCT) to revise its original firming requirements proposal to allow battery storage as an eligible resource that can provide firming to generation resources that are unable to meet the required performance standards. This revision would avoid the worst-case scenario for Texas renewables and benefit clean energy companies such as Clearway Energy and Tesla.

Firming Requirements were created through House Bill 1500 in 2023, by lawmakers who wanted to provide dispatchable power generation resources with additional incentives to add incremental capacity to the market. Firming requirements apply to new power generation projects that interconnect to the grid in or after 2027, and they must operate at or above their average generation capability to ensure

Momentum Toward an Integrated Western Power Market Will Benefit Renewable Energy Developers and Power Utilities

Winners	AES Corp. (AES), Clearway Energy Inc. (CWEN), Portland General Electric Co. (POR), Xcel Energy Inc. (XEL)
Losers	N/A

Capstone believes that California Independent System Operator's (CAISO) Extended Day-Ahead Market (EDAM) and SPP's Market+ are on track to go live in 2026 and 2027, respectively. While the two market frameworks each have their own competitive advantages, we believe that the continued momentum in CAISO and SPP to expand the reach of their respective wholesale energy markets across Western Balancing Authorities (BAs) bodes well for renewable developers such as AES and Clearway Energy. Solar developers will be able to export surplus solar energy, which is beneficial when dealing with transmission constraints. 23 out of 37 BAs in the West have officially committed to, or have demonstrated an intention to join, either market. We believe that utilities like Portland General Electric, which has committed to California's EDAM, will benefit from a broader generation footprint and lower wholesale prices.

Northeast Grid Operators To Increasingly Support Dispatchable Generation, Potential Thermal Restarts

Winners	Thermal Generation Owners in the Northeast, Thermal Developers e.g. Vistra Corp. (VST)
Losers	Clearway Energy Inc. (CWEN)

plants to mitigate resource adequacy concerns in the late 2020s.

In 2026, ISO-NE will redesign its capacity market, including updates to its capacity accreditation method, which determines what percentage of a generator's maximum output it can bid. We expect this to result in more favorable accreditation values for thermal generation.

Capstone believes rising demand forecasts and slower-than-needed additions to renewable generation will force Northeast grid operators, NYISO and ISO-New England (ISO-NE), to increasingly support thermal generation, benefiting thermal developers like Vistra. Increased new natural gas pipeline capacity to the region, namely the Northeast Supply Enhancement pipeline, has positioned the region to do so.

NYISO CEO Rich Dewey has highlighted the need for the state to retain and expand its existing fleet of dispatchable generation. New York's 2025 Energy Plan included a large-scale repowering of generation to renewable fuels by 2040, when the state has committed to being fully zero-emission. We doubt the state will pursue a renewable fuel approach in the long term, but in the short term, we believe NYISO will retain thermal generation, especially peaker plants in New York City. The state may also consider making long-term commitments to some existing or new natural gas

State Policymakers Will Increasingly Target Climate Policies and Utility Earnings to Address Affordability Concerns

Winners	Vistra Corp. (VST), NRG Energy Inc. (NRG), Talen Energy Corp. (TLN)
Losers	American Electric Power Company Inc. (AEP), Consolidated Edison Inc. (ED), Dominion Energy Inc. (D), Ameren Corp. (AEE)

eration of similar efforts across the US would be negative for utilities.

Policymakers in states with existing climate goals may consider backing away from renewable mandates and state-sponsored procurements to address affordability concerns and allow natural gas to supply dispatchable generation. This shift would benefit states seeking to attract data centers, as dispatchable generation can more easily meet their flat demand.

Capstone believes energy affordability will be a defining issue in 2026 as midterm elections approach and prices rise due to demand growth. Energy affordability was a major emphasis in the New Jersey and Virginia gubernatorial elections in 2025, signaling a trend that will accelerate. We believe there will be a range of policy approaches and proposals to mitigate affordability concerns, given the various factors that have caused utility bills to rise.

Sitting legislators and candidates running for office may directly target utility spending and returns as a campaign strategy ahead of the 2026 elections, proposing to limit the Return on Equity (ROE) a utility can earn on spending or to further scrutinize the magnitude of utility spending. This year, legislators in New York proposed a bill to cap the ROE a utility can earn, and Governor Mike Braun (D-IN) has kicked off a process to appoint less utility-friendly regulators in Indiana. A prolif-

New State-Level Large Load Tariffs for Data Centers Emerge Amid Federal Regulatory Uncertainty, Driving Utility Tailwinds

Winners	Dominion Energy Inc. (D), PPL Corp. (PPL), Exelon Corp. (EXC), Oncor (SRE)
Losers	Hyperscalers

Capstone believes ongoing regulatory uncertainty at FERC and PJM regarding large load interconnection and behind-the-meter (BTM) co-location is spurring state-level large load tariffs for data centers that mitigate cost shifting and stranded asset risk to residential ratepayers while providing utilities with regulatory certainty. States are adopting data center-specific electricity rates and contract provisions as large loads shop for interconnection options. We view the adoption of data center-specific contract provisions as positive for utilities, as they filter out speculative load requests and provide regulatory clarity.

As large loads, such as hyperscale data centers, shop for interconnection queues that offer speed-to-market and flexible contract terms, state large-load tariffs provide regulatory certainty. States such as Ohio, Indiana, Michigan, and West Virginia were among the first movers this year to adopt large load tariffs with provisions to protect ratepayers, such as minimum contract lengths, exit fees for early contract termination, collateral requirements, study fees, minimum charges

based on contracted demand, and rules for recovering the cost of grid upgrades.

In late November, the Virginia State Corporation Commission approved the large load tariff terms for Dominion Energy. We expect the Pennsylvania Public Utilities Commission to approve a model tariff in Q2 2026, which sets the stage for utilities such as PPL and Exelon to submit compliance filings. Utilities in Maryland will also be due to submit compliance filings or updated standards for interconnecting data centers by September 2026. Texas will implement new rules under Senate Bill 6 to provide clarity on interconnection rules and data center rates.

Capstone expects state large-load tariffs and PJM's reforms to materially reduce inflated demand forecasts, giving regulators a more accurate picture of future load. AEP Ohio recently cut its data center pipeline by almost 30%, to 13 GW, following the Public Utilities Commission of Ohio's (PUCO) tariff approval. We anticipate similar reductions in load forecasts for Dominion Energy, PPL, and Exelon as tariffs advance in Virginia, Pennsylvania, and Maryland.

We view the resulting reduction in inflated load forecasts as positive for utilities, as more accurate forecasts reduce regulatory concerns about overbuilding infrastructure. As data centers shop for their best deal, regulatory certainty is an important selling point. Utilities and regulators must balance protecting ratepayers while avoiding provisions so restrictive that they drive data center investment to other states.

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