BAAJA does not fast-track data centers. It makes them pay billions

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Opponents of the Bipartisan American Affordability and Jobs Act (BAAJA) have argued that it would "fast-track" a "dirty data center buildout."

This claim is not correct. **Data centers require no special federal permit, and BAAJA contains no provision that streamlines data center approvals specifically**. Many data centers require no federal permits whatsoever, and the data center buildout has not been materially slowed by federal permitting to date.

BAAJA's only data center–specific provisions do not lower costs for data centers; rather, they **make data centers pay more for electricity and grid infrastructure than any other grid user.** And those funds go to the grid and other ratepayers, such as households. **If BAAJA is enacted, data centers would pay at least $35 billion and up to $171 billion** if states make full use of the tools the bill gives them.

By making electricity more affordable, abundant and reliable, BAAJA would benefit every electricity consumer. This includes data centers, but it also includes everyone else. Opposing the bill because it affects both disfavored and favored projects throws the baby out with the bathwater and continues a broken status quo where clean energy and transmission cannot be built, and electricity prices rise.

Federal permits rarely even apply to, let alone slow, data center construction

A data center is a building full of servers and specialized computer chips, almost always located on private, not public, land. Siting data centers is typically controlled by state and local law, and no single federal permit is required to build them. (By contrast, a nuclear power plant, natural gas pipeline, or hydropower dam cannot be built without a specific federal permit.) States, counties, and municipalities are responsible for zoning, building approvals, and water hookups for data centers. And state utility commissions generally decide how data centers can connect to the electricity grid, and on what terms and

timeframe. State environmental agencies also often issue air permits for backup generators, though most are minor permits.

A federal permit comes into play only in specific cases, such as if the data center is proposed on federal land or its construction would fill federally protected wetlands, harm an endangered species, or involve the construction of a co-located power plant. But delays attributed to federal permitting requirements are not the norm for the many thousands of data centers operating and planned in the US.

Instead, data centers are generally slowed or stopped by local opposition, a lack of available electricity, and slow grid connections. In particular, the rise of local and state moratoria and related cancellations of data center projects, as well as years-long interconnection queues, are the main checks on the growth of the industry. BAAJA would leave such local authority intact, and while it would reduce the grid backlog generally, it would do so in a way that charges data centers more than other grid users.

The bill's general permitting reforms to NEPA, the Clean Water Act, and judicial review apply to any project that requires a federal permit, such as an interstate gas pipeline that needs a FERC certificate or a nuclear plant that needs an NRC license. Data centers do not necessarily need any federal permit at all.

BAAJA doesn't streamline data center approvals, but does force data centers to fund the grid and share information

BAAJA's provisions that apply to data centers either impose costs on their operation or help provide transparency about their effects so that local officials have more information:

- Section 2107(a) directs the Federal Energy Regulatory Commission to require "and" pricing for transmission service to data centers. This means data centers, unlike other grid users, would pay *both* the embedded cost of the existing grid *and* the incremental cost of the upgrades they trigger. This provision applies to all data centers regardless of size (the amended bill removed an earlier 20 MW threshold) and to existing transmission rates, not only new ones.
- Section 2107(b) sets a "Ratepayer Protection Floor," authorizing states to charge data centers the incremental cost of new generation, storage, and distribution, auction scarce grid capacity through open seasons, or require data centers to bring their own generation.
- BAAJA also helps state, local, and Tribal governments understand the impact of data centers on their communities by creating a Department of Energy Data Center

Community Assistance Program that provides independent analysis of a proposed data center's effects on the grid, water, rates, and tax base.

BAAJA would send billions from data centers to the grid and to American ratepayers

BAAJA would roughly double what data centers pay for grid electricity and move up to $171 billion over 10 years from data centers to the grid and to other electricity ratepayers.

Estimates from the Rhodium Group and Grid Strategies:

Estimate	Amount Data Centers Pay	Source
Transmission charges to data centers over 10 years	$35 billion	Required by § 2107(a) — Grid Strategies
Generation charges to data centers over 10 years	Up to $136 billion	If all states use § 2107(b) — Grid Strategies
Change in data centers' retail price for grid power	+88% to +102%	With § 2107(a) and all states using § 2107(b) — Rhodium Group
Change in total annual cost of a 1 GW data center	+10% to +11%	With § 2107(a) and all states using § 2107(b) — Rhodium Group

Other objections

"Faster construction of transmission and power plants still helps data centers." This is true but misleading: cheaper, more abundant, and more reliable electricity helps every electricity consumer, and that is the point of the bill. Under BAAJA, data centers would pay for the grid capacity they use and then some, lowering other customers' bills.

"BAAJA's permit certainty and NEPA changes will lock in data center approvals." Those BAAJA provisions protect projects that hold federal permits. Most data centers do not have federal permits. If any data center were permitted illegally (in the Grand Canyon, say), its permit could be challenged in court and vacated. The Project Certainty title explicitly allows agencies to take action in response to court orders, such as an order vacating illegal permits.

"Higher prices will push data centers off the grid and onto off-grid gas." The opposite is more likely:

- **The status quo already pushes data centers to build their own "behind-the-meter" power**, because the grid lacks capacity and the interconnection queue is years long.
- **Data centers prefer to connect to the grid when they can**. It is not a simple or cheap process to build an entire electrical grid and power plant; most developers would prefer not to add this complexity to their project. Moreover, matching the grid's reliability requires building multiple layers of expensive redundancy, as gas plants are down for maintenance much of the year. Grid power also avoids locking in exposure to the price swings of a single fuel.
- **Off-grid data centers plan to connect to the grid when they can**. Most behind-the-meter sites are not planned to be islanded forever but rather a bridge until the interconnection queue clears. BAAJA shortens that time period, or removes it altogether.
- **BAAJA's higher price will not change this calculus.** Rhodium estimates that roughly doubling a data center's grid electricity price raises its total annual cost by 10–11%. That is a premium easily worth paying to connect to the grid and avoid the risks and costs above. Developers say as much: grid connectivity is the "gold standard."
- **BAAJA cuts against the root causes of behind-the-meter generation**. BAAJA addresses both interconnection backlogs and too little transmission. It combines interconnection with regional transmission planning, requires long-term interregional planning, and expands federal backstop authority siting for high-voltage lines. By making electricity and transmission more abundant, data centers will not need to build their own islanded grids and power plants but rather can connect to, and help pay for, the grid that everyone benefits from.