

Data Centers in Delaware: A Policy Analysis

By: Kelli Coles and Michael Adelson

The development of large-load data centers is a hot topic in Delaware and has raised concerns about how Delaware's current laws address the environmental and energy needs of these massive facilities. Under Delaware's Renewable Energy Standard (RPS), certain "large customers" are exempt from compliance under Delaware's Large Consumer Exception codified in 26 Del. C. § 353(b), meaning some of the state's largest energy users are not required to contribute to the transition to renewable energy. Although this exemption appears straightforward, it has become a subject of ongoing debate: on its face, large-load data centers appear to be exempt, but in practice, these users may not actually fall within the scope of the exception. This ambiguity, along with the looming question of the impacts of electricity rates from large-load data centers, is at the center of the debate, particularly because Delaware relies heavily on imported energy through the regional grid.

Clinic attorneys Kelli Coles and Michael Adelson researched these pressing issues and the broader legal implications surrounding large-load data centers in Delaware. Their work focused on the existing state legal framework and the strain large-load customers are predicted to have on infrastructure and renewable energy targets. In addition, their research expanded beyond Delaware to examine how other states are addressing similar challenges and how these approaches could be implemented in the First State.

In their [research memo](#), Coles and Adelson examine how other states and localities have adopted a wide variety of approaches to address their own data center challenges, all of which are feasible for Delaware to ensure that potential future data center development meets state energy goals and environmental concerns. Coles and Adelson presented their research to state environmental and energy experts, and hope it will support future policy initiatives in this burgeoning area of the law. This semester, the Clinic also submitted public comments on a proposed hyperscale data center project in Delaware, Project Washington, and helped the Sierra Club inform its members about how to formulate and submit public comments.