



# BUILDING WITH BOWDITCH

A legal blog written for property owners, contractors, architects, engineers, and developers

## Update: No Local Approval, No State Permitting Path for Massachusetts Data Centers

BY M. MATTHEW MADDEN, JR. • SEPTEMBER 14, 2026

Data centers continue to present real [construction](#) opportunities in Massachusetts and New England. But Governor Healey's latest action underscores a point that should matter to anyone looking at these projects: they can be won or lost before construction starts.

Since our original post, Governor Healey has issued Executive Order No. 658, adding a significant approval requirement for certain large data center projects in Massachusetts. For covered projects, local approval is now tied directly to the state permitting process. If the host community has not approved the project, state permitting agencies are not supposed to move it forward.

The order applies to proposed data center projects with peak electricity demand exceeding 25 megawatts. Those projects must also show compliance with the Commonwealth's data center framework before state permits are granted.

For developers and owners, this changes the early project analysis. Site control, [zoning](#) potential and financing are not enough. The project team needs to evaluate whether the host community will support the project, whether the necessary power and infrastructure are available, and whether the project can satisfy state expectations on clean energy, water, air, ratepayer protection, transparency and community engagement.

Community benefits agreements will also become more important. Under the order, covered projects must submit a community benefits agreement with the host community before moving forward with state permitting. Commitments involving infrastructure, water, traffic, jobs, local investment, emergency response, transparency or other community concerns should not be treated as side agreements. They may affect the project budget, schedule, scope and construction documents.

For contractors and subcontractors, the issue is risk allocation. Long lead equipment, utility delays, permitting

conditions, commissioning obligations, owner changes and liquidated damages can all create exposure if the contract does not match the project. If local approvals, state permits, utility upgrades or community commitments affect the work, the contract should say who owns the risk.

The larger point is simple. Data centers may still be an important part of the next wave of construction in Massachusetts and New England. But the projects best positioned to move forward will be the ones that address local approval, power, permitting, community commitments, utility timing and contract risk before mobilization.