

MEMO

TO: Data Center Workgroup
FM: Renee Knapp and Karen Cannon, Co-Chairs
Pat Murray, Office of the County Executive
DT: November 9, 2023
RE: Data Center Workgroup Update

We have watched the Maryland Department of the Environment's (MDE) review of potential environmental violations at the Quantum Loophole (QL) site, the Public Service Commission's (PSC) review of Aligned Data Centers' request for an exemption from its Certificate of Public Convenience and Necessity (CPCN) process, and subsequent developments. In some ways, the Data Center Workgroup has been overtaken by events at the state level.

To allow time for us to observe and evaluate developments at the state level, we are moving the Workgroup's reporting deadline from January 5, 2024, to March 1, 2024.

Work stopped on the QL site in late May following an inspection by MDE that found that the company discharged an estimated 72,000 gallons of water per day into Tuscarora Creek between April 21 and May 24. MDE found no adverse impacts to public health and the environment from this discharge. MDE has not allowed QL to resume work on the site and has not penalized the company. When we met with MDE officials earlier this fall, they did not share a timeline for allowing QL to resume work.

Aligned Data Centers was the first major data center developer to announce plans to build on the QL site. Aligned filed a request for a CPCN exemption with the PSC, pursuant to Section 7-207.1 of the Public Utilities Article. The PSC denied Aligned's request on August 2, and Aligned filed an application for rehearing on September 1. The PSC issued a provisional order on October 10, which would have allowed Aligned to install 70MW of backup generation and required the company to pursue a CPCN for its remaining backup generation. Aligned rejected the provisional exemption and announced it would abandon the project on October 25.

In the letter rejecting the provisional exemption, Aligned's attorney wrote: "We have to express our concern that the Commission's initial decision and order on rehearing have sent a negative – and perhaps fatal – signal to the hoped-for data center industry in Maryland. The data center industry will presumably continue to locate to other states, and with it the estimated hundreds of millions of dollars of tax revenue that stood to benefit Marylanders and the Governor's stated policy goals."

The Governor's Office issued the following statement to the Frederick News-Post on November 2: "Projects that diversify our economy and drive growth are what we need in Maryland. We must support and partner with emerging industries as they look to expand into our communities. I will work with the legislature to address the industry's needs and ensure the industry has a bright future in Maryland." Brittany Marshall, the Governor's Senior Press Secretary, added that the Governor is "actively working with the General Assembly to address the recent regulatory uncertainty for the industry."

Based on these facts, it stands to reason that the data center industry will wait to see what the legislature does before it continues to invest here. We think it is prudent for us to understand the legislature's appetite for addressing the data center industry's needs before we issue our final report. While many of the questions we are considering are exclusively local, the legislature's decisions will impact the industry as a whole. The legislature may not pass a bill by March 1, but we should understand the framework of any legislative action by then.

Thank you for your service on the Workgroup. We look forward to seeing you next Wednesday.