Texas Escalates Data Center Oversight With Attorney General Water-Use Investigation

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On September 24, the Texas Attorney General's office announced an investigation into hundreds of data center developments across the state, targeting facilities that have not responded to a water use survey administered by the Texas Water Development Board. The investigation spans 18 counties, including Harris, Travis, Dallas, Tarrant, and El Paso, and follows a series of other state actions on the same underlying issue during the preceding seven weeks.

None of this is happening in isolation. It is the latest major state action in a rapidly evolving regulatory response to a legal requirement that has existed for years but drew relatively little enforcement attention until the recent surge in data center development.

What the Law Actually Requires

The Texas Water Code requires TWDB to survey entities that use groundwater or surface water for municipal, industrial, power generation, or mining purposes, and it requires survey recipients to complete and return the survey. TWDB has sent the survey annually to major water users, including data centers, since 2020, asking for monthly water use figures. Under the statute, failure to return a completed survey is a Class C misdemeanor. A recipient that fails to timely complete and return the survey is also ineligible for certain TCEQ permits, permit amendments, or permit renewals, and ineligible for TWDB financial assistance, until the survey has been completed.

TWDB says the data matters beyond simple compliance. The survey results feed directly into the state's 50-year water demand projections, which Texas regions use to plan future water infrastructure. A facility that does not report leaves a gap in those projections. TWDB has also noted that the survey is not sent to data center projects that are still in planning and have not yet been built, meaning current data does not capture future demand from facilities that are not yet online.

A Rapid Series of State Actions

The sequence started August 3, when Governor Abbott directed the PUCT and ERCOT to audit data center projects in ERCOT's interconnection queue before any additional projects could move forward, citing noncompliance with the PUCT's own water and power usage survey as one basis. ERCOT responded immediately, pausing the Batch Zero study process and delaying final classification of large loads, while seeking good-cause exceptions to extend related deadlines. As of late August, ERCOT told regulators it did not yet know how the resulting delay would affect its interconnection study timeline.

On September 14, Abbott followed with a letter directing TWDB specifically to use its enforcement authority against survey noncompliance, stating that some major water users, including data centers, “appear to have committed civil and criminal violations.” TWDB has said publicly that it is a non-regulatory body without independent authority to prosecute violations itself, leaving criminal enforcement to county or district attorneys, and that it shares compliance information with law enforcement upon request. Abbott asked TWDB for a compliance update by October 14.

On September 21, Abbott escalated the response further, directing TCEQ to halt all permits sought by data center projects until ERCOT completes its interconnection audit and the required information from ERCOT, the PUCT, and TWDB becomes available. The Governor's office stated that no state agency should advance regulatory approvals related to data center development until that information has been obtained. TCEQ must provide an update to the Governor's office on its compliance with the directive by October 19, 2026.

The Attorney General's investigation, announced three days later, is the first action in this sequence initiated by an office with direct prosecutorial and civil-enforcement authority rather than a planning, regulatory, or information-gathering role.

The Scale of the Underlying Growth

Estimates of exactly how many data centers operate in Texas vary by source, which is itself part of what these reporting requirements are meant to address. The Texas Tribune puts the figure at 335 to 341 operating facilities, with roughly 248 more planned. Texas A&M's Real Estate Research Center separately reported about 405 operating or under construction, with another 442 planned. Tracking services differ on where Texas ranks nationally: one national tracker counted 238 Texas facilities this year, the most of any state, while a separate tracker, Data Center Map, put Texas in second place nationally with more than 600 facilities operating or planned, behind Virginia's 674. Real estate data from JLL has separately reported that Texas recently surpassed Virginia in the pace of new data center construction, even if not yet in total count.

ERCOT estimates of pending large-load interconnection requests have varied as the queue has expanded. An April 2026 ERCOT presentation cited approximately 410 gigawatts of pending requests, with about 87 percent associated with data centers. By August 2026, Governor Abbott cited approximately 474 gigawatts of pending requests, about 90 percent of which were attributed to data center projects. These figures represent interconnection requests rather than approved or constructed demand and should be understood as snapshots taken at different points in time. ERCOT has also said that a substantial share of projects in the queue have not yet reached the interconnection study stage.

ERCOT's long-term forecast separately projects that data centers will consume more than 12,700 megawatts in 2026. Reported individual facility demand varies widely, from approximately 5 megawatts to proposed projects measured in the thousands of megawatts. Using the commonly cited rule of thumb that one megawatt can serve roughly 200 Texas homes during peak conditions, even a single large facility can represent substantial electric demand.

On water, a University of Texas at Austin white paper, produced as part of the **Bureau of Economic Geology**'s COMPASS research consortium, found that data centers currently account for less than 1 percent of the state's water use but could reach 3 to 9 percent by 2040. That study counted 484 data centers in Texas that were operating, under construction, or planned as of September 2025. A separate white paper from the Houston Advanced Research Center projected that data center water use could reach 29 to 161 billion gallons a year by 2030, as much as 2.7 percent of the state's total water use, and concluded that the state's official water planning process did not then account for that growth.

TWDB's year-by-year figures show the compliance gap persisting even as the survey pool has grown. The agency surveyed 22 data centers in 2023, and 32 percent responded. In 2024, it surveyed 67, and 28 percent responded. In 2025, it surveyed 329, and nearly 30 percent responded, though among the 267 facilities newly added to its tracking that year, only 22.5 percent responded.

At a June 23 hearing of the Texas House Committee on Natural Resources, lawmakers were separately told that only 17 percent of Texas data centers had responded to the 2025 survey. That figure does not align neatly with some of TWDB's other reported response-rate statistics, and the agency has not publicly reconciled the apparent discrepancy. The difference may reflect variations in survey populations, reporting dates, or counting methodologies. At an August 2026 Texas Senate committee hearing, TWDB's Temple McKinnon testified that the agency had sent surveys to 341 facilities and, as of that hearing, had achieved a roughly 30 percent response rate.

What the Investigation Says, and What It Doesn't

The Attorney General's announcement frames the investigation around the same statutory survey-response requirement referenced in Abbott's letters and states that the office intends to ensure that data centers operating in Texas provide accurate, current water use information. The release does not name specific companies or allege that any particular facility has violated the law. Instead, it describes an ongoing, county-by-county investigation into developments that have not returned a survey response.

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How the Industry Has Responded

The Data Center Coalition, an industry trade association, issued a statement following the August 3 ERCOT and PUCT directive saying that its members “strive to be good actors where we operate” and that the group hoped the audit would distinguish responsible operators from noncompliant ones. The statement noted the scale of investment and employment tied to data center development in Texas and urged the PUCT and ERCOT to move quickly so that serious, committed projects are not delayed alongside speculative projects still working through the interconnection queue.

That distinction, between projects that are further along and actually operating and those that remain speculative or in early planning, runs through much of the industry and regulatory commentary on this issue. Some projects within the broader data center universe may not yet have been built and therefore would not have received a TWDB survey. TWDB has acknowledged that its current process does not fully capture planned facilities that are not yet online.

What Comes Next

Several deadlines and review processes are converging. TWDB owes Abbott's office a compliance update by October 14. TCEQ has been directed to provide the Governor's office an update on its implementation of the permitting directive by October 19. ERCOT has not formally requested a change to its April 9, 2027 deadline for delivering Batch Zero study results, and multiple filings describe no confirmed impact to that date. At an August 20 PUCT meeting, however, an ERCOT official acknowledged the agency would not have the study complete by that date and said it was still determining a revised timeline. ERCOT's audit and verification process was separately expected to conclude in early December 2026, according to an August 20 ERCOT filing. The Attorney General's investigation has no stated public deadline.

For data center developers with projects in the ERCOT interconnection queue, the effect of these actions is cumulative: a paused and delayed classification process, TWDB compliance scrutiny, a statewide permitting halt pending completion of ongoing audits, and now an Attorney General investigation, all tied to the broader state effort to obtain more complete information about data center impacts on electricity and water resources.

Project timelines, financing agreements, and utility contracts tied to anticipated interconnection or permitting dates are now exposed to a review process whose full scope and duration the participating state offices have not yet defined.

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