Informing Their Discretion:
Public Acceptance as Infrastructure for the AI Buildout

Ernie Kee

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Background (added November 2026). Ernie Kee wrote this essay in July 2026, days after New York became the first state to pause construction of large data centers. It was meant as a companion to his technical working paper on designing high-reliability power supplies for multi-gigawatt data-center campuses: that paper treats the buildout's physical and financial constraints, while this essay argues that public permission has become the constraint that binds first. It draws on William Ruckelshaus's approach to risk decisions at the Environmental Protection Agency in the 1980s, a source he had drawn on in earlier work on how regulators and the public should share decisions about hazardous technologies. The essay was never published; it is posted here as a working draft.

Abstract

In July 2026 New York imposed the first statewide moratorium on new large data centers, pausing environmental permits for facilities of 50 MW or more. The moratorium marks a structural shift: the binding constraint on artificial-intelligence infrastructure is no longer megawatts, water, or capital, but public permission. This essay argues that the industry's exposure is a form of political risk that no engineering or portfolio decision can hedge, and that the relevant mitigation—investment in social license—has a tested precedent in American risk governance. William Ruckelshaus's conduct of the 1983 Tacoma smelter arsenic decision, and his broader argument that public acceptance of technological risk in a democracy must be earned through informed participation, map directly onto the data-center siting conflict. The essay first asks what the industry is actually selling, arguing that marketing AI as transformation—a pitch whose failures are documented in the industry's own withdrawn advertising campaigns—produces the reactance the polling now records, and that acceptance requires selling specific, bounded, user-controlled tasks instead. It then draws three lessons: participation works only when the outcome is genuinely open; moratoria are the predictable discharge of accumulated distrust in the absence of a credible case-by-case process; and the industry faces a demand-side deficit in which the costs of the buildout are local and concrete while the benefits remain abstract. Closing that deficit requires demonstrating household-level value under privacy-preserving terms, because data practices are themselves a principal driver of the distrust.

Acronyms

AI artificial intelligence

ASARCO American Smelting and Refining Company

EPA U.S. Environmental Protection Agency

MW megawatt

1 The Moratorium Signal

On July 14, 2026, Governor Kathy Hochul signed an executive order barring construction of new data centers drawing 50 MW or more for up to one year, making New York the first state to impose a categorical pause on the industry [1]. The order followed passage of the Responsible Data Center Development Act by wide margins in both chambers—44–16 in the Senate, 102–39 in the Assembly [2]. The stated purpose is to develop a generic environmental impact statement covering energy demand, water use and quality, and air quality, during which no new large facility will be permitted.

It is tempting for the industry to read New York as an outlier. The polling forecloses that reading. Gallup found in March 2026 that seven in ten Americans oppose construction of an AI data center in their local area, including 48% strongly opposed [3]. Opposition spans party, region, and age: 78% of Harris voters and 63% of Trump voters oppose a local project, and no region of the country registers less than 69% opposition. Most striking is the velocity of the shift. In September 2025 Americans were evenly split on local data-center construction; by June 2026 the balance had swung 49 points against [4]. Opinion movements of this size and speed are rare outside of scandals and disasters. The industry did not suffer a Three Mile Island; it suffered an accumulation of rate increases, water-use disclosures, land-use conflicts, and the general sense that enormous facilities were being sited by and for someone else.

For most of the buildout's short history, its constraints have been physical and financial: turbine backlogs, interconnection queues, transformer lead times, water rights, capital. A companion technical paper by the author analyzes portfolio design for electrically islanded multi-gigawatt facilities under exactly these constraints [5]. New York demonstrates that a different constraint now binds first. A facility with a fully self-supplied, reliability-engineered generation portfolio—one that draws nothing from the grid and burdens no ratepayer—would still be stopped by the moratorium, because the intervention operates through the permitting channel, not the interconnection channel. Permission, not power, is the scarce resource.

2 What Are We Selling?

Before asking how to win public acceptance, the industry should ask a prior question it has largely skipped: what, exactly, is being sold? The answer implicit in most AI marketing to date is *transformation*—a technology that will change everything, remake work, redefine creativity, reorganize daily life. The public has heard this message clearly, and the polling records what it heard: a technology that will change everything is a technology that will change *them*, whether they consent or not. Half of Americans are more concerned than excited about AI in daily life; one in ten are the reverse [6]. "It will take over your life" is not a misunderstanding of the transformation pitch. It is the transformation pitch, received.

The industry's own advertising provides controlled experiments in how this framing fails. In May 2024, Apple's "Crush" spot depicted a hydraulic press destroying a piano, a trumpet, cameras, books, and paint—the instruments of human creativity—to yield a thin tablet. The reaction was immediate and hostile; Apple apologized within days, conceding it had "missed the mark," and canceled the television run [7]. Three months later, Google's "Dear Sydney" ad showed a father directing his young daughter to Gemini to write a fan letter to her Olympic hero. Viewers saw a machine inserted into an act whose entire value was that a child performs it herself; the backlash forced the ad out of Olympics rotation within days [8]. Google noted, accurately and revealingly, that the ad "tested well before airing"—a measure of how badly the industry's internal instruments misread public sentiment. Both campaigns made the same error: they sold the technology by depicting what it displaces. Each was, in effect, a dramatization of the public's precise fear, produced at great expense by the industry itself.

The error has precedent and a mechanism. The nuclear industry's founding oversell—power "too cheap to meter"—purchased a decade of enthusiasm at the price of a half-century of credibility, because every subsequent accurate claim was discounted against the remembered exaggeration [9]. The mechanism is psychological reactance: persuasion experienced as pressure on one's autonomy produces resistance to the message, and often a boomerang beyond it [10]. A pitch whose content is "this will transform your life" is maximally autonomy-threatening; it invites exactly the counter-reaction the data-center polling now displays.

The discipline that follows is simple to state and demanding to practice: sell what is actually being sold, and show how it is actually used. Not AI, but a specific task performed for a specific person who remains in charge of it—an errand run, a schedule kept, a cost reduced. The successful infrastructures of the twentieth century were sold this way. Nobody marketed "electrification of life"; they marketed light, refrigeration, and washing machines, and the transformation followed from accumulated, chosen uses rather than preceding them as a promise. The remainder of this essay takes that discipline as its premise: the sections that follow address where the industry's product is decided upon (the siting process) and what the product must visibly be (bounded, useful, privacy-respecting tasks).

3 Political Risk Cannot Be Engineered Away

It is worth being precise about why this risk is different from the ones the industry knows how to manage. In the language of portfolio risk, political intervention is a common-mode jump process with two structural features [5].

First, its arrival intensity is essentially invariant to the facility's technical choices. A moratorium suspends a project whether its power comes from nuclear, gas, solar, or storage; whether it is grid-connected or islanded; whether its water system is once-through or closed-loop. Engineering choices modulate the arguments available to opponents, but the categorical instruments of political intervention—moratoria, permit denials, referenda—do not discriminate by generation mix. The central risk-management tool of infrastructure design, diversification across technologies, provides no hedge.

Second, the exposure scales with visibility. Physical common-mode risks grow with installed generation capacity; political risk grows with the salience of the load itself—its size, its water draw, its land take, its association with a controversial industry. The exposure attaches to the facility's presence in a community, not to any asset within its fence line.

The available mitigations therefore lie outside the fence line as well. One is jurisdictional diversification: spreading facilities across states and countries so that no single political intervention is catastrophic. This is real but limited—the polling shows opposition is national, and a strategy of regulatory arbitrage, visibly practiced, is itself a trust-destroying behavior. The other is to reduce the arrival intensity of intervention: to invest in public acceptance directly. That is not a public-relations observation. It is a risk-management conclusion, and it has a tested precedent.

The cost of failing to make that investment is not confined to the occasional blocked project; siting constraints reprice an entire industry. The mechanism is well documented in adjacent technologies. When local ordinances shrink the feasible land base, development is displaced onto inferior sites—worse resource quality, longer interconnection distances, costlier land—and the marginal cost of every subsequent project rises. For wind power, applying the most restrictive decile of existing U.S. setback ordinances nationwide would eliminate 87% of potential sited capacity; for solar, 38% [11]. Surveys of utility-scale developers find community opposition, typically expressed through such ordinances, among the leading causes of project cancellation, with cancellation costs running to millions of dollars per project [12]. The pattern generalizes: wherever land-use permission becomes the scarce input, its scarcity is capitalized into delivered cost, as decades of housing economics demonstrate [13]. Data centers, which compete for sites on power availability, water, fiber, and latency simultaneously, face a feasible-site set that is already thin; a spreading patchwork of local bans and state moratoria thins it further and transfers the difference to the cost of compute. Public acceptance is thus not merely protection against interruption; it is a determinant of the industry's long-run supply curve.

4 The Ruckelshaus Precedent

In 1983 William Ruckelshaus returned to an Environmental Protection Agency in institutional collapse. His response to the credibility crisis was not primarily managerial but epistemic: he articulated, in a series of addresses and essays, a framework for how a democracy should decide questions of technological risk [14, 15, 16]. Two elements of that framework bear directly on the data-center conflict.

The first is the separation of risk assessment from risk management, following the National Research Council's 1983 "Red Book" [17]. Assessment—the scientific characterization of what a facility does to its surroundings—should be as rigorous and as insulated from politics as possible. Management—the decision about what risk a community will accept, and in exchange for what—is irreducibly a question of values, and in a democracy it belongs to the public. The error institutions habitually make is to let the second question masquerade as the first: to present a siting decision as a technical conclusion when it is in fact a distributional choice. Communities detect this substitution reliably, and they punish it.

The second element is the Tacoma experiment. In 1983 the EPA faced a decision on arsenic emissions from the ASARCO copper smelter in Tacoma, Washington—a facility that employed hundreds of workers and emitted a carcinogen over a populated area. Rather than announce a standard from Washington, Ruckelshaus took the decision to the affected public: the agency held workshops in Tacoma, presented its exposure assessments candidly, acknowledged the uncertainty in them, and asked the community to weigh the trade-off between livelihoods and risk that it, not the agency, would live with. The move was widely mocked—editorialists cast it as Caesar asking the crowd for thumbs up or thumbs down—and Ruckelshaus answered with the Jeffersonian principle that became his signature: if we believe the people insufficiently informed to exercise their judgment, "the remedy is not to take it from them, but to inform their discretion" [15].

Three features of Tacoma matter for the present moment. The process was conducted *before* the decision, not after it; the outcome was genuinely open, and the workshops demonstrably shaped the agency's understanding of what the community valued; and the candor extended to uncertainty—the agency did not pretend to precision it lacked. The smelter ultimately closed in 1985, for reasons dominated by collapsing copper prices rather than regulation. But the process is remembered, four decades later, as the founding demonstration that a technical agency could share a risk decision with a lay public without chaos. The sky did not fall. What fell was the presumption that such decisions could only be made over the public's head.

5 Why Moratoria Happen

Ruckelshaus's diagnosis of regulatory politics explains New York better than any industry-specific analysis. When institutions make risk decisions over the heads of affected communities, distrust accumulates. Trust is asymmetric: it is built slowly through repeated trustworthy behavior and destroyed quickly by single salient failures [18]. Accumulated distrust does not express itself as a demand for better case-by-case evaluation, because the public no longer believes case-by-case evaluation will be honest. It discharges instead as categorical intervention—the bluntest instrument available, applied to the entire class.

A statewide moratorium is precisely such a discharge. Its logic is not "this facility is unacceptable" but "we no longer trust the process that approves these facilities, so nothing will be approved until the process is rebuilt." New York's generic environmental impact statement is, quite literally, an attempt to construct after the fact the trusted evaluative framework that did not exist when it was needed. The industry's strategic failure was allowing the first serious public conversation about data-center siting to occur in a legislative session, framed by opponents, after opinion had already moved.

The lesson is uncomfortable but clear. By the time a moratorium is on a governor's desk, the useful interventions are years in the past. Social license is not a crisis-response capability; it is a stock, accumulated or depleted over time, and the industry has been drawing it down at a rate the September-to-June polling swing makes quantitative.

6 Participation With a Commitment Cost

"We want to ask the affected communities what they want to do" is, frankly, a political move—and that is not a criticism. Tacoma was a political move too: an agency rebuilding credibility chose to demonstrate trustworthiness in the most visible way available. The distinction that matters is not between sincere and strategic participation; it is between participation with genuine optionality and participation as ritual.

Ruckelshaus's experience defines the test. Participation builds trust only when the asking party bears a commitment cost: the demonstrated willingness to hear "no" and mean it. A community consultation staged to legitimate a siting decision already made is detected as theater, and theater is worse than silence—it confirms the suspicion that the process is dishonest, converting soft opposition into hard opposition. The industry version of the Tacoma test would look something like the following. Engagement begins before site selection, when alternatives genuinely exist, not after land is optioned and interconnection is queued. The facility's real burdens—water draw, noise, land take, rate effects, and their uncertainties—are disclosed with the candor Ruckelshaus brought to arsenic exposure estimates, rather than minimized. Benefit-sharing is structured so that the hosting community captures value roughly

commensurate with what it absorbs, in terms it chooses rather than terms chosen for it. And some proposals are visibly withdrawn when communities decline them, because a portfolio of sitings in which "no" never happens is a portfolio in which every "yes" is illegitimate.

There is also an institutional opportunity that the industry has so far treated as a threat. A standardized, rigorous disclosure and evaluation framework—the function New York's generic impact statement is meant to serve—is exactly the trusted case-by-case process whose absence produces moratoria. An industry that helped build such frameworks, and submitted to them early and publicly, would be purchasing a reduction in the arrival rate of categorical intervention at the price of accepting adverse individual decisions. That is the trade Tacoma teaches: individual optionality surrendered in exchange for systemic legitimacy.

7 The Demand-Side Deficit

Process, however, is only half of the problem. The other half is that the public experiences the costs of the AI buildout as local and concrete—higher electricity rates, drawn-down aquifers, transformed landscapes—while the benefits remain abstract, distant, and captured by others. No siting process, however honest, can win durable acceptance for infrastructure whose product the public does not value, and Section 2 argued that the product, as marketed, has been an autonomy-threatening abstraction.

Yet the same survey research shows the deficit is closable. Nearly three-quarters of Americans say they would let AI assist with day-to-day tasks, even as 61% want more control over how AI is used in their lives [19]. The appetite for concrete, household-level assistance coexists with the distrust; what is missing is demonstrated value in the currency ordinary people actually spend—time, money, and effort.

Consider a deliberately mundane example. A household planning a day's meals could assign to an AI assistant the task of finding the lowest total cost of the required groceries—including the driving route across stores, so that the optimization covers fuel and time, not just shelf prices. Told what is being prepared, the assistant could flag missed ingredients and suggest inexpensive pairings. For a cyclist, it could plan shopping around weather windows, traffic, and how much weight and volume a pannier holds, shifting purchases across days when conditions warrant. None of this is speculative capability, and all of it passes the test of Section 2: a bounded task, assigned by a person who remains in charge of it, whose value is measured in the household's own currency. An industry whose public argument consists of national competitiveness and abstract productivity statistics is asking communities to absorb concrete costs for benefits they cannot see. A refrigerator was a better argument for the grid than any macroeconomic projection.

There is a design constraint on this demonstration, and it is not optional. Household tasks of this kind require personal context—an address, a diet, a schedule—and the public's

distrust of AI is entangled with its distrust of data practices: 91% of Americans aware that platforms train models on their data are concerned about the practice [20]. Demonstrations of household value must therefore be built and marketed around data minimization: local processing where possible, no retention beyond the task, no secondary use, and visible user control. A grocery-planning demonstration that harvests the household's data confirms the distrust it was meant to dissolve. This is the demand-side analog of the Tacoma commitment cost: value must be demonstrated on terms that cost the demonstrator something—here, the forgone data—or the demonstration is read as bait.

8 Social License as Infrastructure

The argument of this essay can be stated in the industry's own vocabulary. Public acceptance is not a communications problem appended to an infrastructure program; it is itself infrastructure—a capital stock that requires investment ahead of need, depreciates when neglected, and cannot be procured on short lead times once exhausted. The New York moratorium is what a zero balance looks like. The 49-point collapse in public support over nine months [4] is what depreciation looks like when the stock is being drawn against and nothing is being deposited.

The deposits available are the two described here. On the process side: participation with genuine optionality, candid disclosure, benefit-sharing, and early submission to rigorous evaluative frameworks—Ruckelshaus's practice, scaled from one smelter to an industry. On the demand side: demonstrated household-level value under privacy-preserving terms, so that the public weighing local costs has something real on the other side of its own scale. Neither is cheap, and both carry the commitment costs that distinguish trust-building from theater.

Ruckelshaus's Jeffersonian principle cuts in both directions, and the industry should hear both. If the public seems insufficiently informed to judge the AI buildout wisely, the remedy is not to route around the public—through preemption, through arbitrage, through consultation staged after the fact. It is to inform their discretion, and then to accept what their discretion decides. The alternative is now visible in New York, and the polling suggests it will not remain confined there.

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