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The Senate might consider data center legislation before it leaves Washington to campaign for the upcoming midterms. We are skeptical about the prospects for the Ratepayer Protection Act (RPA). If we are right and the Senate blocks the bill, then it could reemerge in the lame duck session of Congress. However, the potential output during the lame duck session will depend on the election results and might not be overly productive.

- The Senate could hold a procedural vote on Wednesday on the Ratepayer Protection Act. That bill, which passed the House earlier this year, would create a new federal ratemaking standard that state utility commissions would have to consider. While the states would be forced to consider a series of factors, they would not be required to act in a certain way. The RPA is aimed at “large-load customers,” which are defined as non-residential electric customers that:
 1. Use electricity primarily to operate information technology infrastructure and related systems for data storage and computational applications and services; and
 2. Have, in the aggregate, a peak electric demand of 100 megawatts or more at a single site or campus.
- The politics of the vote are both obvious and awkward. Republicans want a vote ahead of the midterms that demonstrates to voters the GOP’s concern about “affordability.” Democrats are in the awkward position of not wanting to give Republicans any political victory. We expect that the Democrats will probably move to block the bill on the grounds that it doesn’t go far enough to contain costs associated with data centers and hope that obstructionism does not resonate with voters.
- If we are right and the Senate blocks the RPA, it could reemerge as an issue to be considered during the lame duck session after the midterm elections. However, the bill’s prospects in December might not be significantly better than they are right now.
- We doubt that the lame duck will be a productive session for two reasons. First, the lame duck agenda will be loaded and it might sink under its own weight. Congress might debate numerous bills but few of them may pass because there is simply too much to do. Second, the environment following the midterms might not be conducive to passing hot-button legislation. One party could be bitter in defeat, and, if Democrats win at least the House, the party might decide to pursue stronger legislation in 2027 when it has more leverage.
- We continue to believe that responsibility for data center regulation will ultimately fall within the purview of the states rather than the federal government.

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