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**GOVERNMENT CODE SECTION 53167: BROADBAND INTERNET ACCESS
SERVICE: DATA CENTERS- #**

Dear

Pursuant to your request, we are providing this written confirmation of an oral opinion conveyed to [redacted] of your office on October 6, 2026.

Under existing law, certain local governmental agencies, such as county service areas and counties, are authorized to provide "broadband internet access service" within their jurisdictions.¹ Also, an enhanced infrastructure financing district may finance public capital facilities or projects that include the acquisition, construction, or improvement of "broadband internet access service."² A local agency providing "broadband internet access service" must comply with the net neutrality requirements described in Government Code section 53167 et seq.³

The term "broadband internet access service" is defined for these purposes to mean:

"[A] mass-market retail service provided by a local agency in California by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service."⁴

¹ See, e.g., Gov. Code, §§ 25213, subd. (aa) (county service areas) & 26231, subd. (b) (counties). All further statutory references are to the Government Code unless otherwise indicated.

² § 53398.52, subd. (b)(19).

³ §§ 53167.2-53167.5 & 53167, subd (e) (defines "local agency" to mean any agency of local government authorized by any other law to provide broadband internet access service"); see §§ 25213, subd. (aa) (county service areas), 26231, subd. (c) (counties), 61100, subd. (af) (community service districts); Pub. Util. Code, §§ 12801.5 (municipal utility district), 16461.10 (public utility district), 10001.5 (municipal corporation).

⁴ § 53167, subd. (a).

You have asked us whether the definition of “broadband internet access service” in section 53167, subdivision (a) would include a building or facility that contains or houses computing or information technology infrastructure for the primary purpose of processing, storing, distributing, or transmitting electronic data (hereafter a data center).

It is our opinion that, relative to the net neutrality requirements imposed on local agencies authorized to provide broadband internet access service under existing law, the definition of “broadband internet access service” in section 53167, subdivision (a) does not include a data center.

Very truly yours,

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