

January 31, 2025

Honorable Chairman Porter and Committee Members,

Applied Digital Corporation (Nasdaq: APLD) is a designer, builder and operator of next-generation digital infrastructure for High Performance Compute ("HPC") applications. Applied Digital has been active in North Dakota since 2021. We've greatly appreciated the collaborative spirit of the state and the opportunity to work with North Dakota employees, contractors, and local and state officials. Our facilities north of Jamestown and in Ellendale reflect the strong partnerships we've built. To date we have invested over \$1B in infrastructure in North Dakota and anticipate roughly \$4B more in the coming years. According to our economic impact study, conducted by a third party earlier this year, we anticipate becoming a top-ten property tax payer in the state within the next few years. We believe this will create roughly 14,000 temporary and permanent jobs during construction. We anticipate we will be responsible for nearly one-half of a percent (0.5%) of state GDP. Our permanent employment footprint at our facilities is expected to be roughly 400 jobs. According to the study, we anticipate there will be roughly 2,500 indirect jobs as a result of our projects. **Our Ellendale project directly resulted in \$5.4 Million being returned to MDU's North Dakota rate payers in 2023 and MDU is projecting that it will directly result in \$14 Million being returned to MDU's North Dakota rate payers in 2024.**

As background, N.D.C.C. Ch. 49-22 (the "Siting Act") requires electric generation from sources other than wind and utility storage in excess of 50 megawatts ("MW") to undergo extensive regulatory review through the siting process before the North Dakota Public Service Commission ("PSC"). The definitions under the Siting Act are broad and any on-site backup electrical generation in excess of 50 MW, which is an ancillary use to the primary facility, could trigger siting before the PSC.

This creates a situation where the primary facility, a manufacturer for example, may be non-jurisdictional to the PSC. However, if the facility's on-site backup generation exceeds 50MW, the on-site backup generation component of the facility must undergo siting. From a practical perspective, we do not believe this regulatory framework makes sense. Further, we believe imposing siting requirements on on-site backup generation does not align with the intent of the Siting Act. The requirement to site on-site backup generation that is not injecting power to the grid effectively extends the PSC's siting jurisdiction to discrete portions of a facility not otherwise jurisdictional to the PSC.

Backup power generation is necessary for many data centers, manufacturers, hospitals, and other power users to function properly and safely. The purpose of backup power generation at our facilities is threefold:

1. To protect our workers and equipment from unintentional harm caused by unexpected disconnection from the grid.
2. To allow our large load to operate off-grid in emergency situations, thus improving the reliability of the grid for other customers and the grid's operators.
3. To satisfy the risk mitigation requirements of our tenants.

We believe that the amendment to the Century Code 49-22-03 presented by HB1539 is a correction in line with the intent of the law. The intent of the Siting Act is to enable the PSC to have a view into facilities

that will interconnect power to the grid and provide energy to customers. In the case of on-site backup power generation not transmitting power to the grid, there is no impact to the grid and therefore the Siting Act should not apply.

State level siting requirements for on-site backup generation are rare among states across the country. Business-friendly states such as Alabama, Arkansas, Idaho, Indiana, Kansas, Michigan, Mississippi, Missouri, Texas, and Wyoming provide no such requirement. Maryland previously provided a requirement at the state level but repealed it. Colorado provides siting at the local level. A less business-friendly state, such as Minnesota, does provide for siting at the state level, but the limit is 80MW, less restrictive than North Dakota's current requirement.

We do not believe it is the intent of the Siting Act to require private businesses with no impact on the grid to seek input from dozens of state and federal agencies to locate their facilities in North Dakota. This process is not only administratively burdensome, but can cost up to hundreds of thousands of dollars and can delay projects for months, years, or potentially stop projects entirely. Finding a location for a large load anywhere in the country, including in North Dakota, is extremely difficult. The unintended consequence of a private company having to site its on-site backup generation component of the facility further limits the ability to locate otherwise non-jurisdictional facilities. These are the types of facilities that bring jobs and other positive economic impact to cities and towns in North Dakota.

There are notable differences between on-site back-up generation and traditional electric generation facilities. On-site backup power generation does not cause the same impacts as full time or peaker plant facilities. In the case of Applied Digital, our on-site backup power generation is permitted to run only 239 hours per year. The generation is not the same type of equipment as may be found at a power plant, the engines are much smaller, contained indoors, and they are not expected to run other than in very rare emergency cases and to conduct very small amounts of maintenance consisting of approximately 1 hour per machine per month.

Local jurisdictions provide oversight of the siting of the facilities that require on-site backup power generation through local ordinances and zoning. The siting of these non-jurisdictional facilities, including their secondary on-site backup generation, is and should continue to be done locally. Furthermore, on-site backup power generation remains subject to other environmental regulations. For example, on-site backup generation must still comply with any applicable air permitting requirements of the Department of Environmental Quality regardless of whether the PSC's siting requirement applies. For these reasons, it is unnecessary to extend the PSC's jurisdiction over on-site backup generation of an otherwise non-jurisdictional facility.

We urge the committee to advance HB1539 as we view this language change as a correction to address the changing needs of technology that will enhance expediting economic development in the state.

Thank you for your time and consideration. Please feel free to contact me for further information. We look forward to continuing our partnership with North Dakota.

Sincerely,

Nick Phillips

Nick Phillips

Executive Vice President of External Affairs



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