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April 23, 2026

Via Electronic Mail & Hand Delivery

Mr. Brian Johnson
North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480
ndpsc@nd.gov

In re: Applied Digital Corporation
Siting – Jurisdictional Determination
Our File No. 012755-000005

Dear Mr. Johnson:

Enclosed for filing please find eight copies of Applied Digital Corporation's Request for Jurisdictional Determination and Affidavit of Robert Dowd (Exhibit 1). Additionally, we've included an unexecuted version of the affidavit so the Commission can access the referenced hyperlinks.

Please feel free to contact me if you have any questions. Thank you.

Sincerely,

Wade C. Mann

WCM/lh
Enc.

cc: Chris Martens (via email)
Victor Schock (via email)
Jannelle Combs (via email)
Casey Furey (via email)

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Applied Digital Corporation **Case No. PU-26-___**
Siting - Jurisdictional Determination

I. Request for Jurisdictional Determination

Applied Digital Corporation ("APLD") through its undersigned counsel requests a jurisdictional determination from the Commission related to the below factual situation and the Commission's application of the exemption of "backup electrical generation" under N.D.C.C. Ch. 49-22 (the "Siting Act"). Attached hereto as Exhibit 1 is the Affidavit of Robert Dowd, APLD Vice President of Energy Strategy in support of this jurisdictional determination.

II. Background

APLD operates an existing blockchain facility (a/k/a ELN-01), an artificial intelligence data center (a/k/a ELN-02), and two additional data centers in various stages of completion (a/k/a ELN-03 and ELN-04) in Ellendale, North Dakota (the "Site"). Dowd Affidavit, ¶2. The Site and other similarly proposed facilities in North Dakota will include backup generators consisting of diesel reciprocating internal combustion engines ("RICE"). Dowd Affidavit, ¶3. With respect to the Site specifically, it is currently planned to have backup electric generation consisting of approximately 252 3MW RICE capable of generating up to 756MW. Dowd Affidavit, ¶11.

The Siting Act requires electric energy conversion facilities to undergo siting before the Commission prior to construction and operation. N.D.C.C. §§ 49-22-03(6) (defining an "electric energy conversion facility"), 49-22-07(1) (requiring a certificate of site compatibility prior to construction and operation of an electric energy conversion facility). The Siting Act exempts certain facilities from the definition of "electric energy conversion facility" including "backup electric generation." North Dakota Century Code Section 49-22-03(1) defines "backup electric generation" to mean "electric generation that is not interconnected with the grid and is generated on a temporary basis to replace primary source electric generation when unavailable." The RICE are not interconnected to the grid meaning, they do not have a generation interconnection agreement and are not authorized to supply the grid with generation. Dowd Affidavit, ¶3. The purpose of the RICE are to operate on an as needed basis when primary source electric generation from the grid is unavailable. Dowd Affidavit, ¶3. For these reasons, the RICE constitute "backup electric generation" and are non-jurisdictional facilities that are exempt from siting before the Commission.

The Midcontinent Independent System Operator (MISO) has a Load Modifying Resource ("LMR") process. Loads can voluntarily elect LMR status with MISO. Under the LMR process, when MISO declares an emergency, LMRs are called upon to either remove or reduce their electricity usage from the grid to reduce overall stress on the grid, to promote stability, and to help prevent blackouts. Dowd Affidavit, ¶4.

If a portion of backup generation, such as the RICE, is certified as a LMR Type II Behind the Meter Generation resource, MISO could call upon the resource under a NERC Energy Emergency Alert Level 2 (EEA2) with 30 minutes notice. Dowd Affidavit, ¶5. MISO calling an EEA2 level is the prior step to when power interruptions are imminent or happening. Dowd Affidavit, ¶6. An EEA2 is a last resort to call on loads that have backup generation assets to start their emergency operations and take the facility load off the grid to provide grid stability and try to avoid outages. Dowd Affidavit, ¶5. LMR allows emergency demand response to curtail the load APLD's facilities would normally pull from the grid. Dowd Affidavit, ¶5. Under the LMR process, there is ***no power that is authorized to enter the grid*** from this backup generation. Dowd Affidavit, ¶5.

APLD seeks to elect to qualify a portion of its backup generation, the RICE, as LMR behind the meter generation to offset its load in emergency MISO declarations. Dowd Affidavit, ¶5. Under this LMR process, APLD could only use its backup generation up to the level of current facility demand for its operations. Dowd Affidavit, ¶9. Even if APLD certified a significant amount of its backup generation as LMR behind the meter generation to offset its load, the amount of generation cannot exceed the facility's then current operating load. Dowd Affidavit, ¶9. No excess generation would be used nor is it possible for excess generation to be put on the grid from the backup generators. Dowd Affidavit, ¶9. Simply stated, through MISO's LMR process, APLD would be among the first volunteering to comply with MISO directives in the event of a grid emergency and reduce power taken from the grid so that others who may not have backup generation can still have electricity. Dowd Affidavit, ¶9.

Additional information regarding how LMR is accomplished with the utility provider, an example of the amount of generation APLD would seek LMR status for, and discussion regarding air permitting status of the RICE is included in the Dowd Affidavit for the Commission's general reference. Dowd Affidavit, ¶¶10-12.

III. Jurisdictional Determination and Analysis

If APLD elects to participate in MISO's LMR process, APLD's temporary operations of its backup generation in response to MISO's emergency alerts to reduce grid strain does not and should not impact APLD's RICE from remaining "backup electric generation" under the Siting Act. Specifically, APLD seeks a jurisdictional determination from the Commission that when an APLD backup electric generation source elects LMR Type II Behind the Meter Generation with MISO, and the backup generation is called upon to reduce APLD's load demand from the grid, the EEA2 event constitutes a situation where "primary source electric generation [is] unavailable" and the backup generation is permitted to operate and retain its designation as "backup electric generation" under the Siting Act. N.D.C.C. § 49-22-03(1). As previously explained, the backup generation would not be interconnected to supply the grid with generation during the backup generation's operations.

EEA2 events from 2021 through 2025 have resulted in approximately 31 hours of events. Dowd Affidavit, ¶7. In 2021, Winter Storm Uri had 17 hours, Winter Storm Elliott required 4 hours and August high temperatures in 2023 required 10 hours of LMR. Most recently an EEA2 was called for extreme cold in January 2026. Dowd Affidavit, ¶7. An EEA2 event constitutes a situation where primary source generation is unavailable, thus triggering MISO's curtailment request. As

previously explained, if the system's load is not curtailed during an EEA2 event, the situation could escalate to an EEA3 with imminent or already occurring power outages. Dowd Affidavit, ¶6.

Based on the above analysis, APLD respectfully requests the Commission issue a jurisdictional determination finding that if APLD elects for its facilities' backup electric generation to qualify as a LMR resource, the temporary operations of the backup generation in response to MISO designated emergencies are considered by the Commission to be operations where "primary source generation [is] unavailable," and said temporary generation will not affect the backup generation from qualifying as a "backup electric generation" facility under the Siting Act. If the Commission needs any additional information, please contact the undersigned.

Dated this 23rd day of April, 2026.

By: _____

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EXHIBIT 1

AFFIDAVIT

STATE OF NC)
) ss.
COUNTY OF Mecklenburg)

Robert Dowd, being first duly sworn, deposes and states as follows:

1. I am the Vice President of Energy Strategy with Applied Digital Corporation ("APLD"), and I am aware of the following facts regarding APLD. This Affidavit is executed in support of APLD's jurisdictional determination regarding the backup energy plans for APLD's facility in Ellendale, North Dakota and other future operations in the State.

2. APLD has an existing blockchain facility in Ellendale that has been operating for several years known as ELN-01. In addition, we have one artificial intelligence data center built (ELN-02) with two additional data centers in various stages of completion (ELN-03 and ELN-04).

3. APLD's existing and future sites either contain or will contain backup generators that are diesel reciprocating internal combustion engines ("RICE"). North Dakota Century Code Section 49-22-03(1) defines "backup electric generation" to mean "electric generation that is not interconnected with the grid and is generated on a temporary basis to replace primary source electric generation when unavailable." The RICE are not interconnected to the grid meaning, they do not have a generation interconnection agreement and are not authorized to supply the grid with generation. The purpose of the RICE are to operate on an as needed basis when primary source electric generation from the grid is unavailable.

4. Qualifying this backup generation to voluntarily support the removal of the load, or a portion thereof, from the grid before the entire load is subject to a black-out is becoming more necessary to promote grid stability and help prevent blackouts. This can occur though MISO's Load Modifying Resource (LMR) process.

5. If a portion of backup generation is certified as a LMR Type II Behind the Meter Generation (BTMG) resource, MISO could call upon this resource under a NERC Energy Emergency Alert Level 2 (EEA2) with 30 minutes notice. This is a last resort to call on loads that have backup generation assets to start their emergency operations and take the facility load off the grid to provide grid stability and try to avoid outages. LMR allows emergency demand response to curtail the load our facility would normally pull from the grid. There is ***no power that is authorized to enter the grid*** from this backup generation. APLD seeks to elect to qualify a portion of its backup generation, the RICE, as LMR behind the meter generation to offset its load in emergency MISO declarations. This allows APLD to curtail primary power withdrawal

from the grid and start the emergency generation prior to the entire grid or portions of the grid losing power. We believe this is a fair request that benefits MISO grid operations and helps to provide our neighbors with stability of electrical service.

6. MISO calling an EEA2 level is the prior step to when power interruptions are imminent or happening, as shown on MISO's website:

Dark Orange

The grid is stable and MISO has issued an Energy Emergency Alert 2 (EEA2).

EEA2 is the second level of emergency action, triggered as operating reserves continue to decline. It means MISO is facing an energy shortage and needs to reduce energy demand.

By declaring EEA2, MISO operators can access emergency generation not available under normal conditions. They may also purchase emergency energy from neighboring grids (if available) and implement measures to reduce electricity demand. One option is for MISO to ask member utilities to encourage consumers to conserve power. However, an EEA2 declaration does not automatically mean this step will be taken.

Red

MISO has issued an Energy Emergency Alert 3 (EEA3).

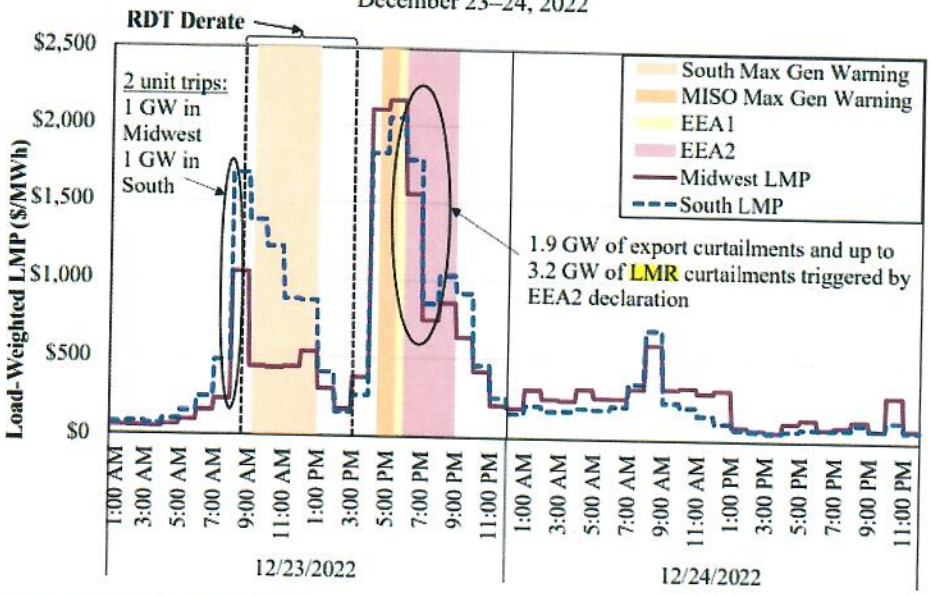
EEA3 is the final level of emergency action, triggered to prevent cascading outages and ensure grid reliability for as many consumers as possible. It indicates that energy supply and demand are unbalanced, and power interruptions are imminent or already occurring.

Power interruptions are a last resort to protect the grid's stability. In these rare situations, MISO's role is to identify the areas where interruptions are needed and determine how much electricity must be reduced to balance supply and demand. MISO's member utilities are responsible for carrying out the interruptions and deciding which customers will temporarily lose power.

7. EEA2 events from 2021 through 2025 have resulted in approximately 31 hours of events. In 2021, Winter Storm Uri had 17 hours, Winter Storm Elliott required less than 4 hours (see figure in Paragraph No. 8 below) and August high temperatures in 2023 required no hours of LMR for the northern tier but did require hours for others. Most recently an EEA2 was called for extreme cold on January 24, 2026, which was in effect for less than 2 hours from 4:36am to 6:01am.

8. An example of the actual amount of EEA2 declaration can be shown from Winter Storm Elliott below. The emergency was in effect from just before 6:00 p.m. to 9:00 p.m. MISO exercised 3.2 GW of LMR at that time that was called upon throughout their area. The spike in usage is also demonstrated in Figure 8 below as to how quickly demand decreases, as normal electricity usage for residents decreases during the night. These are mechanisms to handle spike in usage in a way that the Regional Transmission Organizations do not have to overbuild generation, which would increase the costs for all rate payers.

Figure 8: Winter Storm Elliott Emergency Declarations and Prices
December 23–24, 2022



2022 STATE OF THE MARKET REPORT

9. APLD can only use the backup generation up to the level of current facility demand for our operations. Typically, in the winter, our facilities do not operate at their peak load. Recently an EEA2 was called in January 2026 due to extreme cold. Even if we certified a significant amount of our backup generation as LMR BTMG to offset our load, the amount of generation cannot exceed the facility's then current operating load. No excess generation would be used nor is it possible for excess generation to be put on the grid from the generators. APLD would be volunteering to comply with MISO directives in the event of a grid emergency and reduce power taken from the grid so that others who may not have backup generation can still have electricity.

10. LMR behind the meter generation (BTMG) is accomplished through an agreement with the utility provider as the balancing area authority within MISO to provide generation to replace an amount of its facility load when grid conditions require demand reductions. This MISO election qualification usually provides for a minimum of three to five possible events each season of four consecutive hours each.

11. APLD seeks a jurisdictional determination from the Commission holding that LMR BTMG falls within the exemption to siting pursuant to N.D.C.C. § 49-22-03(1). If the Commission issues a determination consistent with APLD's request outlined in Section III of the Jurisdictional Determination, APLD would utilize LMR BTMG in all our North Dakota locations. For illustrative purposes, the Ellendale site has the following potential amounts of the following backup generators that could be qualified:

	Number of 3MW engines	Max possible certification for 4 hours
ELN-02	60	180 MW
ELN-03	96	288 MW
ELN-04	96	288 MW

Similar types of generation would be used at other sites in North Dakota. The only facility with backup electric generation currently installed, tested, and capable of operating presently is ELN-02.

12. The backup generators are diesel reciprocating internal combustion engines (RICE). These are also regulated by the North Dakota Department of Environmental Quality for the fuel storage as well as the air permit. In addition, to this jurisdictional determination, a modification of the air permits is also being pursued to allow for the engines to have up to 50 hours of annual run time which could occur any day or time for up to 4 hours per call. Due to the air permit restraints, we would initially only apply for 90 MW LMR capability even though we have 180 MW available. This is because EPA limits the operation of backup generation for grid support use to only 50 hours per year per engine. Each engine cannot provide the 64 hours under that permit constraint, so the entirety of the backup generation cannot be submitted for LMR.

Further your affiant says not.

Robert Dowd

Subscribed and sworn before me on April 23, 2026.

TAYLOR LEDBETTER NOTARY PUBLIC CLEVELAND COUNTY, NC

Notary Public

My Commission expires 6/27/2029