



State of West Virginia

DEPARTMENT OF COMMERCE

July 1, 2026

EMAIL/FIRST CLASS MAIL

Mr. Casey L. Chapman
Fundamental Data, LLC
125 Hirst Rd, Suite 1A
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Re: Ridgeline Facility: Tucker County, West Virginia

Dear Mr. Chapman,

Thank you for your multiple letters and telephone calls regarding Fundamental Data, LLC's ("Fundamental") compliance with H.B. 2014. In your initial letter you raised four (4) specific issues. I will address each of those issues in the order they were raised.

I. Fundamental Data's project is conceptual and not yet subject to H.B. 2014.

The first issue is the assertion that Fundamental is not subject to H.B. 2014 because its project is still in the conceptual phase and no final decisions have been made. The June 18, 2026, letter states Fundamental is only developing the power portion of the project and that the power may be "directed generally, though not exclusively, at the data center market. The letter states further:

"The data centers contemplated for the project remain *conceptual*, and what is ultimately built *will be* determined by the eventual users of the power we generate. Those users may or may not qualify as High Impact Data Centers under the §2.3 definition."

In the June 26, 2026, telephone conversation, you stated that Fundamental has not made a decision regarding the design and development of its Ridgeline Project. You state that Fundamental is considering several "great options and opportunities" regarding the project and that some of those options likely implicate H.B. 2014 while others do not. Regarding the power plant for which Fundamental has obtained its air permit, you acknowledged that a final decision has not been made regarding whether the power untimely generated from that plant will be delivered to the electric grid

outside the parameters of H.B. 2014 or delivered to a data center via a microgrid within the parameters of H.B. 2014.

In the June 29, 2026, telephone conversation, you stated that the comments made by Fundamental during the May 18, 2026, meeting were not meant to convey that a final decision had been made regarding the power generation or the data center portion of the project. You acknowledged that both portions of the proposed project remain in the “conceptual phase” and there is a possibility that Fundamental’s final plans for the Ridgeline Project will not implicate H.B. 2014. Finally, in your June 30, 2026, letter, you again acknowledge that Fundamental is still in the process of designing the power and data components of the project, and “as the project develops and commercial decisions are made,” Fundamental will engage the Department on the applicability of H.B. 2014.

Since the Department notified Fundamental that it was in violation of H.B. 2014 for failing to seek a HIDC certification, it has represented to the Department that: 1) its statements at the May 18, 2026, meeting were not meant to convey that final decisions had been made regarding the power and data components of the project; 2) the power component of the project is still in the conceptual phase and no final commercial decisions have been made; 3) the power component of the project could ultimately be developed in a manner that does not implicate H.B. 2014; 4) the data component of the project is still in the conceptual phase and no final commercial decisions have been made; 5) the data component of the project could ultimately be developed in a manner that does not implicate H.B. 2014; and 6) presently, Fundamental will not be making the final commercial decisions regarding the design and development of the data component of the project. Since the project is still in the conceptual phase and there is a legitimate possibility that neither the power component nor the data component will eventually invoke the requirements of H.B. 2014, it is not evident that Fundamental is aware that its Ridgeline Project will satisfy the definition of a HIDC. Accordingly, the June 18, 2026, notification of violation is rescinded.

It is important to note that there is an additional basis for rescinding the violation that was not raised by Fundamental. One element of the HIDC definition is that the project “consists of one or more parcels in this state... *owned, operated or leased*” by the petitioner. The Department advised Fundamental that it satisfied this element of the definition based upon the representation in its air permit application that it has control of the proposed power plant site. Fundamental never disputed this assertion from the Department. The Department conducted a search of the deeds and other records within the Office of the Tucker County Commission and did not find any property in Tucker County owned by Fundamental Data, LLC or any of its affiliated companies. More specifically, the parcel identified as the location of the proposed power plant in the air permit application is Parcel 47-06-0208-0005-000 (3,425.110 AC). This parcel is owned by Western Pocahontas Properties, LTD, not Fundamental. Accordingly, the Ridgeline Project does not consist of one or more parcels in this state “owned, operated or leased” by Fundamental.



II. The Certified Microgrid District Certification is mandatory.

Next, it was asserted that the certified microgrid district certification is voluntary, and no filing deadline applies. West Virginia is a “regulated” state regarding power generation. What that means is that only entities regulated by the Public Service Commission may generate and sell power to customers in West Virginia (businesses and residents can “self-generate”). However, there are two exceptions. The first exception is the two microgrids previously authorized by the legislature and certified by the Department of Commerce outside the strictures of H.B. 2014. Since Fundamental was not the recipient of either of those two (2) designations, that exception does not apply to Fundamental.

The only other exception is in H.B. 2014 and it pertains to microgrid districts in which at least seventy percent (70%) of the electricity generated within the microgrid district is consumed by one or more high impact data centers. Therefore, the only way in which Fundamental can participate in a microgrid project in West Virginia is through the process outlined in H.B. 2014. This is important because §5B-2-21(h) specifically states:

“To become a certified microgrid district *under this section*, the person or entity *must* present the Secretary of the Department of Commerce with a confidential letter of intent.”

Not only does state code require the filing of a letter of intent for a microgrid district, so too does the legislative rule. Section 145-20-4.1 expressly reads:

“Petitioner *must* seek certification of a microgrid district by submitting a Letter of Intent to the Secretary.”

Fundamental is not obligated to build a microgrid project in Tucker County and the State cannot require it to do so. The decision to pursue such a project is voluntary and within the sole discretion of Fundamental. However, once Fundamental decides to pursue a microgrid project in Tucker County, the only way it may do so is by seeking a certification from the Secretary pursuant to H.B. 2014. The need for certification of the microgrid project is not elective, it is not voluntary and it is not left to the discretion of the Company. It is mandatory.

III. The letter establishes the definitional elements of an HIDC.

The third issue raised in your letter is that the state did not establish that the 90 MW threshold of critical IT load had been met because the 5.1 GW figure described by Fundamental at the May 18, 2026, meeting only pertained to “generating capacity.” This issue is moot since the violation has been rescinded.

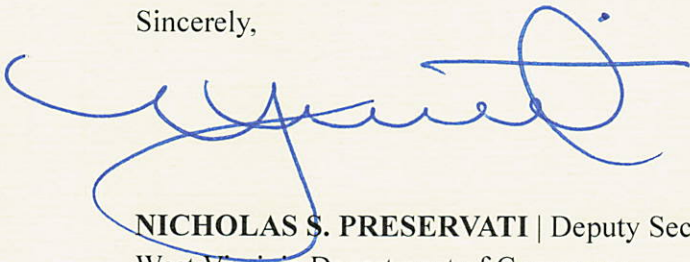


IV. The violation is based on Fundamental's failure to apply for certification.

The last issue raised by your letter is the "origin of the asserted violation." This issue is also now moot. However, I would like to address your comment that "this is not how we would expect the State to treat a company that has chosen to invest in West Virginia at no cost or risk to its residents." Obviously, the State appreciates any company willing to invest significant resources here and is willing to deploy all reasonable efforts to help such companies be successful. However, the fact that Fundamental is not seeking financial assistance from the State or Tucker County for this Project does not mean that the project is being done "at no cost or risk to its residents" as asserted in your letter. Responsible and experienced developers understand that even the best projects entail some risk and raise legitimate concerns from the public.

Please note that the rescission of the Notice of Violation does not mean that Fundamental's Ridgeline Project is exempt from H.B. 2014. The rescission only acknowledges the fact that Fundamental does not currently satisfy the HIDC definition because its project is still in the conceptual phase and because it does not own any of the parcels needed for the project. If Fundamental ultimately decides that its project will include a HIDC with a microgrid, then it must obtain a HIDC certification as well as a microgrid district certification per H.B. 2014. The Department acknowledges and appreciates Fundamental's commitment to engage with the Department regarding the applicability of H.B. 2014 and any certification requirements that "may follow" once final commercial decisions are made. The Department strongly encourages Fundamental to not wait to engage with it and the local community as it continues to develop its Ridgeline Project.

Sincerely,



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