EXHIBIT A

PROPOSED AD HOC COMMITTEE MISSION STATEMENT

Prepared by Jack Penegor, Chairman of the Planning Commission, for consideration by the Planning Commission at its November 4, 2019 meeting.

The mission of the Ad Hoc Committee is to explore and provide a report and recommendations to the Planning Commission regarding a proposed amendment to the Escanaba Township Zoning Ordinance ("ETZO") and a related special land use application to operate an industrial solar farm or farms in Escanaba Township.

There has been tremendous resident input into those issues at numerous public meetings. The dialectic ("back and forth") in those meetings has identified several issues which are either technical or which raise issues that merit further factual study.

It is not the intent of the Planning Commission to have the Ad Hoc committee investigate, summarize or consider highly subjective matters such as the weight, quality or nature of public support for the Ordinance Amendment or the special land use application submitted by Orion. Rather, it is to investigate several important issues that have arisen and which, in the opinion of the Planning Commission, merit prompt independent analysis in an interactive way between opponents and supporters of the project.

The Planning Commission has no budget. Any requests for spending authority would have to be addressed to the Planning Commission. It is hoped that volunteers and state and local officials (Department of Environment, Great Lakes and Energy, Department of Agriculture, Public health departments among others) can provide background expertise as to the issues identified below at no cost.

The Ad Hoc Committee may investigate any issues it deems fit. However, Given the pending Orion request, the Planning Commission would expect a report from the Ad Hoc Committee within 90 days of members being appointed on the issues identified below, which the Planning Committee deem to be of critical importance. Given the make-up of the Committee, the Planning Commission expects the final report will state report what the Ad Hoc Committee was able to agree upon regarding such issues and that it may finally address any other issues with summaries of opposing views and supporting materials for those views. In addition, the Ad Hoc Committee may make any recommendations it deems appropriate.

At the end of the 90-day period, the Committee should report to the Board on the nature and status of any incomplete investigations which the Committee desires to continue to investigate, so the Planning Committee can determine whether to delay its report to the Township Board pending receipt of such investigations.

It is not the intention of the Planning Commission to limit the scope of its Ad Hoc Committee's investigation of the impact of proposed industrial solar farming on existing ~~e coli~~ groundwater contamination within the Township. Indeed, the investigation into such impact may lead the Ad Hoc Committee to investigate and report on issues not heretofore raised in the several hearings already

conducted by the Planning Commission and the Township Board. Without limiting the generality of the foregoing, the Planning Commission requests the Committee investigate the following issues:

1. EXISTING ~~ECOLI~~ GROUNDWATER CONTAMINATION

The impact of thousands of support poles and any other excavations or ditches that will be utilized in the project on existing ~~e-coli~~ groundwater contamination in the vicinity of the project. That will require input from Orion as to how those will be installed, and information about the extent to which such construction will increase or decrease risks associated with existing ~~e-coli~~ groundwater contamination. The Ad Hoc Committee should investigate the degree of relative risk associated with proposed solar farming development and existing agricultural practices. In particular, that would include investigation of the upper and lower aquifers and the question of whether or not they are isolated from each other or are mingling or communicating with each other. If Orion suggests that risks associated with groundwater contamination ~~E-Coli~~ can be eliminated or minimized by specific practices, the Ad Hoc Committee should investigate the efficacy of such practices. If the investigation reveals that additional information of a technical or scientific nature is required, the Ad Hoc Committee should investigate and identify such additional information. The Committee should investigate whether there are other suitable locations for industrial solar farming within the Township which are not subject to ~~e-coli~~ groundwater contamination and identify the extent to which they would be suitable and available for industrial solar farming.

LOSS OF FARMLAND/CLEAN ENERGY

The Committee should investigate, identify, and comment on the public policies regarding preservation of farmland and industrial solar farming as applied to these specific facts. This would include identification and review of State and Local statutes, ordinances, regulations or policies which refer, reflect or relate to those public policies. The committee should specifically investigate the quality of the agricultural lands proposed to be used for industrial solar farming, including the impact of the pre-existing ~~e-coli~~ groundwater contamination. The Committee should investigate the extent to which the agricultural lands in question are being actively farmed, and the extent to which they are already inactive and/or being held in land banks. The Committee should address the question of whether the proposed project, with an anticipated 50-year life span, would serve the same public policies that support federal and state land bank laws, rules and regulations. The Ad Hoc Committee may request information on state and local statutes, ordinances, regulations or policies which refer to, reflect or relate to the preservation of farmland and industrial solar farming from the Township Attorney.

SECURITY FOR REMOVAL OF SOLAR FARM IMPROVEMENTS AT THE END OF THE USEFUL LIFE OF THE PROJECT

The Planning Commission requested a legal opinion from the Township attorney regarding the efficacy of the security being offered by Orion to guarantee funds will be able to "decommission" the project at the end of its useful life. The Ad Hoc Committee should review that written opinion and provide any input or recommendation they desire to make to the Planning Commission.

AESTHETICS

The development plans make clear that Orion will be landscaping in an effort to keep the solar panels and equipment out of direct public view. The Ad Hoc Committee should investigate the extent to which proposed setbacks, landscaping, limitations on the height of the structures, or any other Orion proposed conditions will eliminate or reduce any aesthetic concerns and the possibility of glare from the equipment. The Ad Hoc committee should investigate, report on, and make any recommendations they might suggest regarding the aesthetic appearance of the proposed projects.

FINANCIAL IMPACTS

The Committee should investigate and identify the financial impacts of the proposed industrial solar farming. This would include impact on the local governmental budgets, the Township budget, the impact on landowners who desire to lease their land, and the impact on energy consumers, in the short, medium and long-term.

IMPACT ON WILDLIFE

The Committee should investigate the extent to which any ameliorating proposals from Orion (wildlife corridors, etc.) will eliminate or reduce to an acceptable level any adverse impacts on wildlife, specifically including migratory birds. The Ad Hoc committee should investigate, report on, and make any recommendations they might suggest regarding impact of the proposed project on wildlife.

FIRE HAZARDS/RISK

The Committee should investigate any special fire hazards that industrial solar farming might trigger, how they compare with existing fire hazards, and whether and how such risks can be reduced to acceptable levels.

EXHIBIT B

Index to documents
Escanaba Township Ad Hoc Committee
Solar Ordinance

Reports and Articles

FINAL REPORTS

Webinars & Webpages

https://mediaspace.msu.edu/media/Shining+a+Light+on+Agricultural+Solar+Energy+Development+Webinar+Part+1+-+3.28.18/1_kk027ifl (2 hours, 5 minutes)

https://mediaspace.msu.edu/media/Shining+a+Light+on+Agricultural+Solar+Energy+Development+Webinar+Part+2+-+3.29.18/1_6li90b2y (One Hour, 46 minutes)
E mails

https://mediaspace.msu.edu/media/Planning+%26+Zoning+for+Solar+Energy+Development+Webinar+-+10.12.18/1_7soipng9

https://cleanenergytraining.org/ (firefighting Solar)

https://ulfirefightersafety.org/resources.html#training/firefighter-safety-and-photovaltaic-systems

http://client.prod.iaff.org/#page=SolarPVHome

Solar Glare Hazard Analysis Tool
https://www.osti.gov/servlets/purl/1250742

Michigan Regional Plant List

https://www.canr.msu.edu/nativeplants/plant_facts/local_info/upper_peninsula

Michigan Natural Features Inventory
https://mnfi.anr.msu.edu/

Michigan Invasive Species List
https://www.michigan.gov/invasives/0,5664,7-324-68002_74188---,00.html

Marquette Charter Township Outdoor Lighting Ordinance
https://marquettetownship.org/wp-content/uploads/2015/03/OUTDOOR-LIGHTING-ORDINANCE.pdf

https://mnfi.anr.msu.edu/
Invasive species present an enormous threat to Michigan native diversity - second only to habitat destruction. MNFI is working with partners to provide educational resources for volunteers and professionals to identify, assess and control invasive plant species in our state's natural communities.

MNFI staff work cooperatively with the Midwest Invasive Species Information Network to provide educational materials and a to promote early detection, identification and treatment strategies for invasive species.

Michigan Regional Plant List
https://www.canr.msu.edu/nativeplants/plant_facts/local_info/upper_peninsula

Michigan Invasive Species List
https://www.michigan.gov/invasives/0,5664,7-324-68002_74188---,00.html

Wildlife Conservation and Solar Energy development in the Desert Southwest, US.
https://academic.oup.com/bioscience/article/61/12/982/392612

Cheboygan County
http://is0.gaslightmedia.com/cheboygancounty/_ORIGINAL_/fs06-1554120602-89906.pdf
- P. 22, SOLAR ENERGY SYSTEM - PHOTOVOLTAIC (SES-PV)
- Separates Level 1, 2 and 3 solar facilities by acreage

Clinton County
https://www.clinton-county.org/DocumentCenter/View/3030/OR-126-17--Solar-Farms?bidId=
- Defines solar farms as not including systems built for use of energy on-site, which are subject to zoning standards as "Accessory Structures or Uses" under Sec 501 of the zoning ordinance

Delta Township, Eaton County
http://www.deltami.gov/wp-content/uploads/2012/10/Delta-Township-Zoning-Ordinance-9-3-17.pdf
- P. 163, SECTION 8.57 SOLAR ENERGY SYSTEMS (SES)
- Establishes standards by square footage covered.

Goodland Township, Lapeer County
http://www.goodlandtownship.org/yahoo_site_admin/assets/docs/100-07_ZO.24555935.pdf
- P. 41, Section 12.20: SOLAR ENERGY

- Separates by exempting systems that do not supply energy off-site, which use are subject to zoning standards for the districts where they're located

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Attorney client materials
October 17, 2019 cover letter – one page
October 29, 2019 cover letter – one page

G:\kal\2019138 Escanaba Township Ad Hoc Committee\2019138 index to documents

EXHIBIT C

Michigan Department of Agriculture and Rural Development

Policy for Allowing Commercial Solar Panel Development on PA 116 Lands

MDARD's overall goal is to positively address competing good land use issues. To achieve this, below are conditions under which MDARD may allow for solar panel operations on lands enrolled in the Farmland Development Rights Program. There are two major goals in this approach:

- To allow solar energy facilities to be placed on lands enrolled in the Farmland Development Rights Program.
- To preserve agricultural land for future use as intended by the Farmland and Open Space Preservation Act, MCL 324.36101 *et seq*.

MDARD may permit solar energy development on lands enrolled in the Farmland Development Rights Program as provided below.

Definitions

Amended Farmland Development Rights Agreement (Amended Agreement) - A signed agreement between a Landowner and MDARD for the State of Michigan. Contains the conditions required to allow a commercial solar power array.

Commercial Solar Agreement - This is the agreement entered into by the Landowner and the Solar Energy Developer. It must contain all conditions specifically identified here as the responsibility of the Solar Project Company.

Farmland Development Rights Agreement - The agreement between the Landowner and the State of Michigan that define conditions for participating in the Farmland Development Rights Program as required by MCL 324.36101 *et seq*.

Landowner - The property owner who has a signed and recorded Farmland Development Rights Agreement with MDARD for the State of Michigan.

Local Governing Body - The local unit of government with zoning responsibility. This would be a township unless the township does not zone and then the zoning authority would lie with the county.

Solar Project Company - The owner and/or operator of the solar project entity.

This policy establishes the expectations for responsibilities in carrying out the development, maintenance and decommissioning of a solar energy array on property enrolled in the Farmland Development Rights Program. The document will refer to the Solar Project Company as well as the Landowner. However, under MCL 324.36101 *et seq.*, the Landowner is responsibile for complying with a Farmland Development Rights Agreement. As a result, the Amended Agreement between the Landowner and the State of Michigan will ascribe all responsibilities to the Landowner. Therefore, those responsibilities herein identified as the responsibility of the Solar Project Company should be addressed in the agreement between the Solar Project Company and the Landowner.

Administrative Approach

- Pursuant to the Farmland and Open Space Preservation Act, MCL 324.36101 *et seq.* (the Act) and Paragraph 2 of the Farmland Development Rights Agreement with the Landowner, MDARD, subject to appropriate permitting by the local governing body, may permit structures to be built on property enrolled in the program if the structures are consistent with farm operations. MDARD will work with the local governing body to determine appropriate bonding requirements.

- MDARD has determined that the placement of structures for commercial solar energy generation on property enrolled in the Farmland Development Rights Program is consistent with farming operations and is consistent with the purposes of the statute (MCL 324.36101; 324.36104 and 324.36104(a)) if the following conditions are met:

    - An Amended Agreement is entered into by the Landowner for the land where the solar facility is to be located. The Amended Agreement shall extend the existing Farmland Development Rights Agreement for a period of time that is equivalent to the amount of time the land is used to generate solar power combined with the remaining term of the Farmland Development Rights Agreement. This will result in no net change in the length of the Farmland Development Rights Agreement.

    - Tax credits are not claimed during the deferment period. The deferment period begins at the time of solar facility's construction and extends until all commercial solar panels and appurtenant structures are removed. The past seven years of tax credits are calculated at the time the Amended Farmland Development Rights Agreement is recorded and held until the land is returned to agricultural production at the end of the Commercial Solar Agreement. If a landowner chooses to leave the Farmland Development Rights Program at any time during the Commercial Solar Agreement, the calculated seven years tax credits would be payable.

- The site should be designed and planted to achieve a score of at least 76 on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites. The pollinator habitat area must allow for replanting when the usable life of the pollinator habitat expires. The ground cover is to be established and maintained. MDARD expects this will be the Solar Project Company's responsibility under the Commercial Solar Agreement.

- Any portion of the site not included in pollinator plantings must maintain United States Department of Agriculture -Natural Resource Conservation Service Conservation Cover Standard 327. Planting standards can be found at: https://efotg.sc.egov.usda.gov/references/public/mi/sow327.pdf and https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1263169.pdf

- A bond or irrevocable letter of credit as a surety tool is obtained and maintained in an amount sufficient enough to decommission the solar array and return the property to agricultural purposes. The financial surety must be in place for the entire deferment period. The amount of the financial surety shall be calculated by a licensed engineer and approved by MDARD. The surety must be payable to the State of Michigan. MDARD expects this will be the Solar Project Company's responsibility under the Commercial Solar Agreement.

- Both the establishment and maintenance of the site assures the land can be returned to agricultural uses at the end of the deferment period. Consistent with NRCS policy, an NRCS Certified Prior Converted (PC) exemption for agricultural land will not change if, for some reason, the land under a long-term Commercial Solar Agreement begins to exhibit wetland characteristics. But for those fields that are currently exempt under Parts 303 and 301 of the Michigan Natural Resources and Environmental Protection Act, the drainage infrastructure must be maintained during the deferment period. MDARD expects drainage infrastructure maintenance will be the Solar Project Company's responsibility under the Commercial Solar Agreement.

- The land is returned to agricultural use at the end of the deferment period and continues to be subject to the requirements of the Farmland Development Rights Agreement. Decommissioning the site must be completed in time for normal agricultural operations for the following growing season.

In all cases, conditions for exiting Farmland and Open Space Preservation Act, MCL 324.36111(a)) shall apply throughout the solar agreement and deferment period.

Contract Amendment

Amending the Farmland Development Rights Agreement will be a two-step process. The first step will result in a split of the original Farmland Development Rights Agreement, pursuant to MCL 324.36110(4). The split should divide the land into the portion that will be subject to development under a Commercial Solar Agreement and the portion that will continue to operate under the original Farmland Development Rights Agreement. The second step is that the Landowner shall enter into an Amended Farmland Development Rights Agreement for the portion of the land that will be in a Commercial Solar Agreement. The Amended Agreement will be filed with the register of deeds. The Amended Agreement will reflect all the conditions required to insure the placement of structures on the property 'is consistent with farming operations and is consistent with the purposes of the statute.' This Amended Agreement must be executed by the Landowner and MDARD 60 days prior to any construction.

In no event can the deferment period plus the remaining period in the original Farmland Development Rights Agreement exceed 90 years. Regardless of the length of any lease with a Solar Project Company, the deferment period is limited to 90 years minus the remaining term of the Farmland Development Rights Agreement. The Landowner may enter into a subsequent Amended Farmland Development Rights Agreement to provide for an additional deferment period.

Application Process for Solar Panel Approval and Placement on Land Enrolled Under the Farmland and Open Space Preservation Program

October 2, 2019

STEP 1 (Local government approval/review)

1. Landowner/Solar Developer contacts the local unit of government having zoning authority to determine if solar development is permitted on the land under local zoning. The following are possible responses that may be received:

a. Solar panel development is not permitted on the land.

b. Solar panel development may be permitted via either a rezoning, a special use permit or a use variance.

c. Solar panel development is permitted under local zoning.

d. If the land is not zoned the solar panel development would likely be permitted via a building permit.

2. _ If the project has been Approved by the local government or you have docUmentation (i.e meeting minutes, apÅroval letter) from thelocal government thåtthe project will be äppioved proceed to STEP 2.

STEP 2 (Solar. Developer submits Solar development plan to Michigan Department of Agriéülture & Nül'al Development (MDARD)i

1 .1 Solar Developed sends dOcVments to MDARD showing the extent of the*Solar development. The documénts will include:

a. Site plan showing all proposed solar panels, acceSsroads, substations, 23arpd any qther str'uctures and improvements related to the solar 24 4evelopment.

b. List of tax parcels within the proposed solår development including the tax parcel number, landowner name and PA 1 16 Agreement number; 27 •The landowners who have property under PA 116 Agreements or PA 1 16 Liens 28 will be contacted by MDARD to discuss their options.

3. MDARD will send a letter to the landowner regarding their options and a Solar Panel Application if their property will continue under PA 1 16.

STEP 3 (Landowner submits a Solar Panel Application to MDARD for approval or denial)

This application may be submitted if the request has been approved by the local government or if the local government intends to approve the application and confirms the same with MDARD.

36 1 . Landowner completes and submits a Solar Panel Application for development of 37 a commercial solar facility on the property. 38 2. The application will contain:

39 a. Landowner's name, address, phone number and email.

40 b. A copy of the PA 1 16 Agreement upon which the project is proposed.

41 c. The name of the Solar Developer, their address, phone number and email 42 and the person designated to represent the company.

43 d. A copy of the site plan showing where the commercial solar facility is to be 44 located.

45 i. The plan should indicate the enrolled land in PA 1 16 that will be 46 occupied by the solar panels.

47 e. If the land to be occupied is less than all the land enrolled in the PA 1 16

48 Agreement additional information will be needed so that the PA 1 16 49 Agreement may be split by the program such that the property proposed 50 for a commercial solar facility can become a stand-alone Agreement.

51 • If the Agreement needs to be split, submit a Split Request form 52 along with the Solar Panel Application.

53 f. The legal description for the parcel upon which the solar facility is to be 54 located.

55 g. A copy of the local government approval or confirmation that the project 56 can be approved by the local zoning authority.

57 i. The approval and confirmation should be on local government

58 letterhead or may be official minutes from a meeting of the 59 goverqing body of the local government (township board, county

60

61 h. A copy of the portion of the commercial solar agreement with the

62 landowner that indicates: (Note: The Solar Developer may provide the

63 fdllowing informatio[p]n ih the form of a[z] memorandum of lease, easement or

64 option, rather than 'providing the entire document.)

65 The [t]efrh ofthe commércial sdlå(agreement withåhe landowner in 66 years.

67 ii. Solar Developer provides written -assurance that the solar panels

68 and appurtenant structures will be removed from the property, 69 unless the ternh of thecommercial solar agreement is extended by 70 the landowner, theildéal unit of government and MDARD.

71 iii. Sölar Developer submits written assurance that surety will be

provided to the State, no less than 90 days prior to commencement of construction to cover the cost of removal of the solar panels and appurtenant structures, in the event the removal is not done by the solar developer.

i. Solar Developer provides written assurance plant and maintain a ground cover crop beneath the solar panels and natural pollinator habitat in between and on the periphery of the solar panels.

iv. Solar Developer provides written assurance to maintain existing farm drainage volume as part of the project.

STEP 4 (MDARD review and approval/denial)

1 . Upon receiving a complete Solar Panel Application, MDARD will review the application within 60 days.

a. If information is missing from the application MDARD will request the landowner to provide those items prior to review and final determination.

2. If local government approval has been received, and MDARD approves the request, an approval letter will be sent to the landowner with a copy to the solar developer indicating the project has been approved.

3. If the local government has not taken formal action but is reviewing the request, MDARD may approve the request subject to approval by the local government. 4. MDARD may not move to STEP 5 until approval from the local government has been received.

5. Appeal: An applicant has 30 days to appeal a rejection by MDARD. An appeal of a rejection by MDARD must be by certified letter to the Director of MDARD.

STEP 5 (Landowner contacts MDARD at least 90 days prior to commencement of construction of the solar development)

1 . The landowner will provide:

a. Evidence of a surety bond for the cost of the removal of the solar facility and the restoration of the land to agricultural use and which names the State of Michigan as the beneficiary.

b. A breakdown of the taxable value for the split parcel intended for the solar facility for the past 7 years, signed by the local tax assessor.

c. Anticipated construction start date.

2. MDARD will provide a Farmland Development Rights Solar Panel Agreement (Amended Agreement) to the landowner for appropriate the Amended Agreement will be split so that the land covered by this Amended Agreement only covers the land intended for the placement of the solar facility on the property.

b. The term (number of years) of the commercial solar agreement of the land while occupied by the solar facility will be added to the existing term of the prior Agreement when the Amended Agreement is created.

3. The landowner will return the executed Amended Agreement to MDARD for execution by the State of Michigan and recording at the Register of Deeds in the County where the land is located.

4. The Amended Agreement will contain the following provisions:

a. The landowner agrees to provide notification to MDARD within at least 90 days of an ownership change on the property.

b. The landowner agrees not to claim Farmland Preservation tax credits on the subject property beginning in the year of construction of the solar facility and until the solar facility has been removed from the property and the land restored to agricultural use.

c. The term (number of years) of the commercial solar agreement will be added to the existing term of the prior Agreement when the Farmland Development Rights Solar Panel Agreement (Amended Agreement) is created.

d. The landowner agrees to remove the solar panels and appurtenant structures and to restore the land to agricultural use.

e. A surety bond is to be provided, naming the State of Michigan as beneficiary, to cover the cost of the removal of the solar facility and the restoration of the land to agricultural use. If MDARD learns that a surety is not in place for the land the solar facility and appurtenant structures will be removed by MDARD and the landowner will be billed for the costs.

f. The landowner agrees to provide notice to MDARD and the local government within at least 90 days of a change in ownership of the solar facility.

g. The landowner agrees to plant a ground cover crop under the solar panels and natural pollinator habitat and to maintain these plantings.

h. The landowner agrees to maintain existing drainage volume of the parcel throughout the life of the project. It is understood that existing drainage

structures may be altered to accommodate solar panel placement however those adjustment may not reduce the volume of water being drained from the parcel.

i. The landowner agrees to inform any new owners about this Amended Agreement.

j. The landowner agrees to obtain approval from the local governing body for any period of time that the property is used as a commercial solar facility.

STEP å(Proyiding copies of the recorded Amended Agreement to the lanåpWfiei and solar developer.)

1 . When MDARD deceives the,Original Amended Agreement as recorded back from the register of deeds, a copy will be provided to the Landowner and the Solar Developer..

a. Execution and recording of the Amended Agreement by the landqwner and the Stateof Michigan is the final step after which construction n4ay commence..

2. Landowher to prbvide affidavit from commercial solar developer stating that the ground cover is in accordqhqe with USDA-NRCS Conservation Cover Standards 327 andrfhat the pollinator habitat area achieves a score of 76 or higher on the Michigan Pollinator HabitatPlanning Scorecard for Solar Sites.

3. The ground cover and pollinator habitat is subject to monitoring by MDARD staff with the possibility of in-person inspection.

4. If the work has not been completed and/or is not to the required standards the landowner will be notified for corrective action.

EXHIBIT D

VARNUM
ATTORNEYS AT LAW

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Grand Rapids, Michigan 49501-0352
Telephone 616 / 336-6000 | Fax 616 / 336-7000 | www.varnumlaw.com

Randall W. Kraker

Direct 616 / 336-6510
rwkraker@varnumlaw.com

January 2, 2020

Via E-mail and First Class Mail

Mr. Peter Moritzburke
Orion Renewable Energy Group LLC
155 Grand Ave. #706
Oakland, CA 94612

Re: Michigan Property Tax "Dark Store Theory"

Dear Mr. Moritzburke:

Orion Renewable Energy Group ("Orion") is pursuing the development of a renewable energy generation system in Escanaba Township, Michigan. This renewable energy system involves the installation of a large array of solar panels on land in Escanaba Township to generate renewable, environmentally friendly electricity. In connection with the proposed renewable energy development, certain parties have suggested that property tax revenue projected to be due to the taxing entities could be uncollectible if Orion or its successors raise the "Dark Store Theory" as a way of reducing property taxes due on the solar energy property. As a result of these assertions, questions have been raised regarding the Dark Store Theory related to the proposed solar energy development.

The Dark Store Theory does not appear to have any application to the property tax valuation of solar energy system property for several reasons. First, with a solar energy system, the real estate normally is leased such that there is no owner-occupied property, and there is no owner-occupied retail building. Second, a significant portion of the cost, and value, of a solar energy system is tangible personal property used to generate electricity and will be taxed on the personal property tax roll. There is no direct parallel between the value of tangible solar energy system equipment and the value of the related buildings at issue in the Dark Store Theory cases. And third, the underlying valuation question will always be one of valuing the subject property at its highest and best use. There appears to be no meaningful extension of the Dark Store Theory to a vast array of real and personal property generating renewable electricity.

The Dark Store Theory is an argument that taxpayers have raised in connection with the property tax valuation of large, "big box" retail department stores, such as Menards and Lowe's. The Dark Store Theory is focused on the property tax valuation of free-standing owner-occupied retail buildings. For example, in a leading Dark Store Theory case, *Menard, Inc. v City of Escanaba*, 315 Mich App 512 (2016), the taxpayer argued, in large part, that its owner-occupied real estate (the store) should not be valued based on the property's cost, but instead it should be valued based on allegedly "comparable" sales prices of vacant free-standing buildings that were

sold in recent years. The taxpayer argued that the property tax valuation of its operating retail store property should be based on sales prices of these vacant buildings, which had been previously used as owner-occupied big box store locations. However, most of the sales "comparables" proffered by *Menard* were subject to deed restrictions and/or undergoing a change in use in the sales transaction. For that reason, the Michigan Court of Appeals rejected the use of those sales and affirmed the use of the cost approach in valuing the underlying property. It is commonly anticipated by taxing jurisdictions that much of the "evidence" generally used by big box owners in pursuing other similar Dark Store Theory tax appeals is subject to these same deficiencies and that the tide is turning in those appeals. Based on our review, the unsupported assertions about risks created by a Dark Store Theory position are not relevant to the total property taxes that will be paid with respect to the solar energy development being contemplated in Escanaba Township.

Please contact the undersigned with any questions.

Sincerely yours,

VARNUM

Randall W. Kraker

RWK/plw

cc: Adam Brody
Deb Ondersma
Wayne Roberts

15796325_1.docx

EXHIBIT E

Generation Interconnection Overview

The AHC requested background information pertaining to the established processes that permit new generators to be interconnected with American Transmission Company's (ATC) high voltage electric transmission system or the "Grid" ("*Network Generator*") or Upper Peninsula Power Company's electrical distribution system ("*Distributed Generator*"). The information that follows was produced in response to this request.

Existing legal and regulatory framework:

- *The Midcontinent Independent System Operator (MISO) has established generation interconnection studies and procedures to define the process for requesting, studying, constructing and operating utility scale generation projects that are connected to the high voltage electric transmission system (the "Grid").*

- *Upper Peninsula Power Company (UPPCO) has established processes and procedures that permit behind-the-meter customer-owned generation projects to be developed and interconnected to its electric distribution system, in accordance with Michigan's statutes, rules and guidelines.*

Background:

a. ATC's Grid typically operates at 69,000 volts, 138,000 volts or 345,000 volts.

b. UPPCO's distribution system typically operates at 12,000 volts (primary) and 120/240 volts (secondary).

c. Customer-owned generation interconnections are permitted and generally occur at the level of the distribution system.

d. Customer-owned generators that are connected to the local distribution utility's system are regulated to ensure public safety and system stability.

e. Customer's can install generators that are sized to meet their individual needs. Excess capacity is not currently permitted under Michigan law.

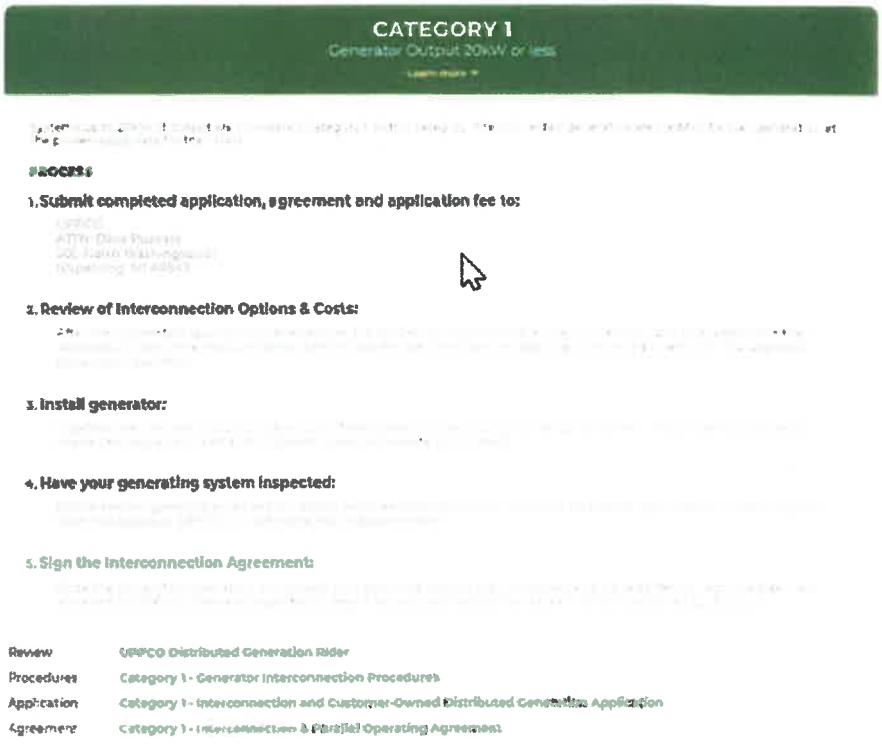
f. UPPCO currently has ~1.6 megawatts (MWs) of customer-owned generation enrolled in its Net Metering/Distributed Generation program.

g. Distributed Generators
   a. Regulated by the Michigan Public Service Commission (www.
   b. Administered by the incumbent utility (UPPCO) (www.

h. Network Generators (grid connected)
   a. Regulated by the Federal Energy Regulatory Commission (FERC)
   b. Administered by the Midcontinent Independent System Operator (MISO) (www,

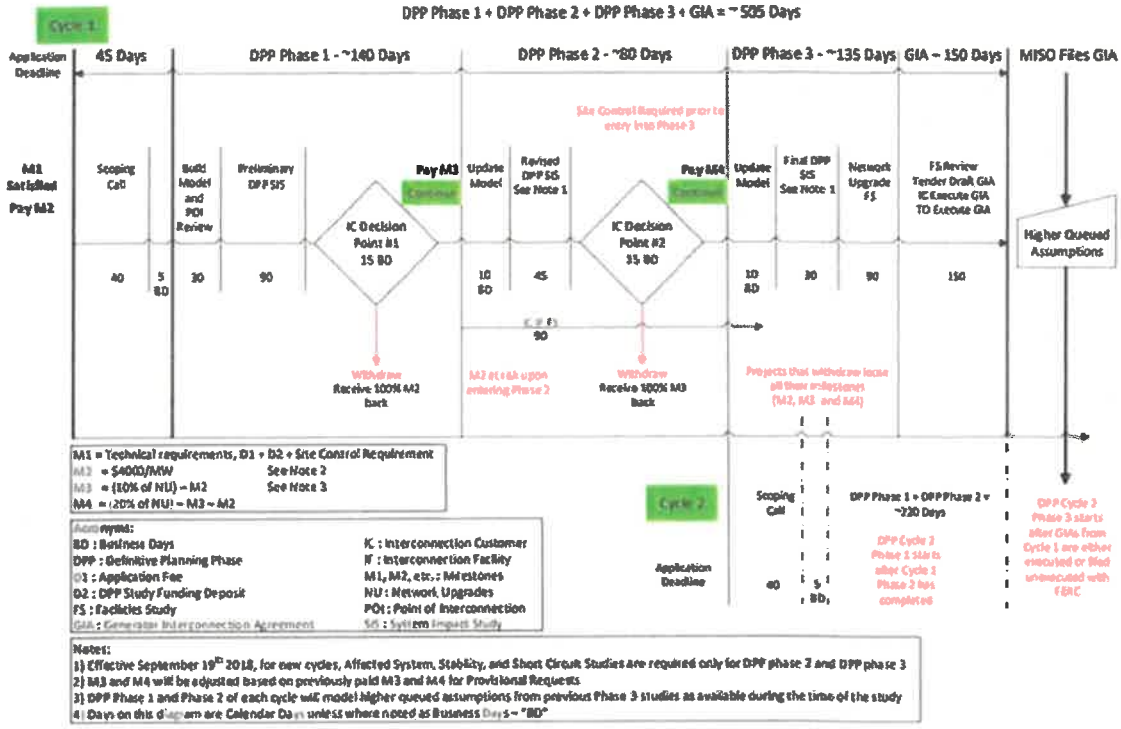
UPPCO's Distributed Generation Program (Small Scale, Customer-Owned Generators)

Overview of UPPCO's Interconnection Process (Small Scale, Customer-Owned Generators)



MISO's Generation Interconnection Process (Grid-Connected, Utility Scale Projects)

Generator Interconnection Process



Refer to full GI Process Flow Diagram and notes for more detail: GI Application and DPP Readiness