STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

GRETCHEN WHITMER
GOVERNOR

RACHAEL EUBANKS
STATE TREASURER

DRAFT

MINUTES OF THE MEETING OF THE STATE TAX COMMISSION

Okemos Conference Center, Okemos Ballroom
2187 University Park Drive, Okemos, Michigan

And

Virtual Meeting via Microsoft Teams

Tuesday, September 14, 2021
9:00 a.m.

Peggy L. Nolde, Chairperson
W. Howard Morris, Member STC
Leonard D. Kutschman, Member STC

David A. Buick, Executive Director
LaNiece Densteadt, Recording Secretary

The item numbers referred to in the minutes correspond to the agenda items as numbered.

It was moved by Kutschman, supported by Morris, and unanimously approved to adopt the minutes of August 17, 2021, as presented. (Item 1 on agenda)

Executive Director Buick stated the following: There will be add on to the agenda towards the end the Michigan Master Assessing Officer Education Program has some updates they would like to have approved before the October program starts.

Public Comment – Agenda Items 3 through 13 Only (Item 2 on agenda):

Brian VanBlarcum spoke before the Commission on behalf of Consumers Energy and CMS Energy regarding Agenda Item #12, Solar Ad Hoc Committee Report and Recommendation. Mr. VanBlarcum stated the following: Thank you for having me back. I am Brian VanBlarcum and I am the Director of Tax for CMS Energy and Consumers Energy. As one of the state's largest electric utilities our company has a vested interest in the solar property taxes that are ultimately passed on to our customers. First, we want to tell you that we appreciate the Commission's action to table the August 17th solar report and also the committee's effort to correct the errors and assumptions that were used in their report in their illustrative PILT calculation. My comments today will address two areas of concern, first the committee's decision not to consider the impact of federal tax incentives in their analysis in the table and the assumptions used to calculate the $12,700 per megawatt illustrative PILT. Throughout the report the committee makes numerous references to the decline in costs and technological advancements that occurred over the last ten years. These outcomes exist largely because the industry responded to the availability of federal tax incentives such as the 30% investment tax credit. The committee has dismissed our arguments and a lot of other stakeholder arguments to include the impact of federal incentives and valuing the true cash value of installed projects. At the same time the committee projects that future solar costs will not only increase by inflationary rates and those recent technological advancements will slowly decline. In a pretty recent and notable development late last Friday the US House released proposed clean energy provisions that are likely to be installed in a final reconciliation bill later this year. The proposed provisions seek to extend the 30% investment tax credit for another decade through 2031 and is noted by the committee in its report the investment tax credit is currently in a phase down position under existing law. The bills that were introduced also seek to reintroduce a $25.00 per megawatt hour production tax credit for solar with the same phase down schedule through 2031. We believe the introduction of this legislation rebuts many of the positions taken by the committee with the respect to the impact these types of incentives will not only have on the future, but also existing projects located in the state. These federal incentives to the extent that they are will not only continue to drive innovation within our industry but will directly impact the price investors are willing to pay for an existing solar facility knowing that he or she could qualify a new project under and ITC and PTC extensions. Given these recent developments and the likelihood of some type of legislative action later this year we request that the committee to include the impact of federal tax incentives in their analysis including the presentation of a discounted cash flow analysis that supports their solar multipliers.

With respect to the PILT it is evident the committee spent an awful lot of time improving the narrative around their PILT calculation, but the committee continues to use conservatively high assumptions that simply overstate potential tax revenue from solar and thus overstate the illustrative PILT. From a millage rate perspective, the committee appears to be leveraging 23 small or uniquely positioned solar facilities that are currently located in the state to arrive at an average of 28 mills. The report doesn't indicate the list of those facilities the size or location of those facilities or whether those projects were developed with existing tax incentives under Michigan law. To develop large scale solar in the 10 to 20 megawatts range the land needed to fulfill these projects is likely to come largely from rural areas. Areas with much fewer local governmental services and also lower millage rates. Several weeks back I provided the committee a list of MPSC projects either through PPA's or utility owned facilities that are planned to be placed into service between 2001 and 2023. Many of these facilities are in the 10-to-20-megawatt range and there is a handful that is in the 100-megawatt range and most have millage rates between 18 to 25 range. We request that the committee reevaluate the illustrative PILT using 22 mills which would be a more accurate rate based on the location where large-scale solar installations are likely to be located. As for the predicted factors used to illustrate the PILT or the specific tax we simply do not believe the committee has presented any documented information to support how a 2021 solar installation will be valued over the 25 years. In fact, the predicted actually depreciates for the first 15 year of its life slower than the personal property factors that we use for electric and gas transmission and distribution property here in the state. Property that experiences very little technological advancement on a year over year basis.

Finally, the committee calculates the illustrative PILT using a 4% discount rate in a 25-year potential tax revenue stream. Use of a 25-year income stream is too short given the report makes numerous references to a 30-year useful life. These references and assumptions should be aligned and consistently used throughout the report. Next, the PILT is calculated using a 4% discount rate such a rate is excessive given local governments could fund this revenue shortfall in the earlier years of a project with municipal financing and then it would likely benefit from higher PILT revenue in later years of a project compared to that ad valorem collection. To that point entering into a long-term consistent specific tax or payment in lieu of tax likely reduces the associated risk versus an ad valorem tax collection and therefore should provide for a lower discount rate. We recommend the committee reevaluate the specific tax using a 30-year period and a 1 to 2% discount rate. With that said I appreciate the opportunity to address the Commission here again on what is a very important topic for our company and ask that this report be tabled again to provide further time to investigate the impact of federal incentives and the impact they may have on the illustrative tables and the assumptions used to calculate the $12,700 PILT.

Sean Brady spoke before the Commission on behalf of Clean Grid Alliance regarding Agenda Item #12, Solar Ad Hoc Committee Report and Recommendation. Mr. Brady stated the following: Just to quickly introduce Clean Grid Alliance we are a not-for-profit advocate. We work on policies that promote level playing field for large scale renewable and battery resources. We primarily focus on what I like to call the original big ten footprint from Michigan to Minnesota. Half of our members are large scale renewable developers working on winds, solar and battery storage so that is who we are. Thank you for addressing this issue and this very important topic and being open to our comments and our feedback. We have reviewed the most recent report prepared for today and our view is that the recommendation from this report would still result in Michigan having personal property taxes as mentioned in the last call that would be very high even at $12,700 it would still be close to being the highest here in the mid-west. Consequently, we view that this would deter or even curb interest in developing solar resources in Michigan however as the previous speaker mentioned there are a few changes to the input in the assumptions that can be made that would make these proposals competitive with neighboring states. Some of my topics overlap with the previous so I won't address those. I will just address a couple of changes that were not mentioned by the previous speaker.

First, I want to quickly address the 2022 property tax table and table one. We see this table would yield a tax rate that is better than table two, but it would still be one of the highest in the region. Most of our states we work in we see the depreciation rate basically bottoming out around 9 or 10 so if you were to change or move the .12 factor to a 9 or 10 it would make Michigan comparable to the rest of mid-western states. In addition, one of the factors that is of concern is the proposal in the report to review and change on a yearly basis. This creates risk for solar projects because if you are not familiar these large-scale solar projects basically enter into one contract, so they know for their entire life their revenue stream is pretty much known and fixed for a 15-to-20-year period. There is no way to change it and so you have variability a lot of the costs such as personal property tax it creates a risk. So, to minimize that or to account for that market dynamic some states would not review on an annual basis but we recommend every 8 to 10 years to account for the changes in the market.

Turning to the PILT or the alternative specific tax rate we appreciate you looking at this we are supportive of this policy as being a tax option. However, even despite the changes that were made we say this table is still leaving Michigan not competitive with other states. It was mentioned in the report that Ohio, Wisconsin and I will add Illinois their rates are about 50 to 60% of what was suggested as a tax rate of $12,700 per megawatt. Illinois and Ohio that is inclusive of real personal property tax, so it is real and personal property tax it is about 50 to 60% of the rate you are looking at right now. In addition, Wisconsin would be 1/12 of that Indiana would be lower and Minnesota would be about ½ of what you are looking at. To kind of summarize this all things being equal using this specific alternative rate and if Michigan would adopt this as an alternative rate other states would be a better investment opportunity for investors because this rate is higher than what was levied by its neighbors.

There are some changes that can be made and before I get into a couple of assumptions and input changes, I do want to briefly mention tax abatements as a policy. There are a number of states in the region that already offer a full or partial abatement for large scale solar projects and the reason I mentioned this is that unlike utilities a lot of the wind developers I represent are not required to build in Michigan. They look at working in all the states across the country and they are looking for economic opportunities to build their projects and they review the tax policy state by state and if Michigan's tax rates are at the higher end like this recommendation would be then one way to help equalize that situation is to consider a tax abatement policy. I don't want to go into much more detail than that because I know that is not necessarily your purview and that would be a legislative issue. I just wanted to put that out there.

Quickly, because I don't want to take up too much more of your time there were 3 points or assumptions, we think would make a significant change one is the millage rate that the prior speaker just mentioned. A second is period of depreciation or maybe stated differently the table two depreciates over 25 years. If you were to hasten that depreciation rate and use basically what was in table one or something closer to table one you would reduce the tax rate and make it more comparable to other states. The last point is depreciation factors on the solar facility cost itself accounting for functional changes over time the trend line right now shows that costs for solar projects are declining. The report said that their assumption was based on keeping solar facility costs fixed for the life. If you make a cost to account for some of those depreciation over time that would make an impact. To wrap up, the industry is supportive of the pathways you are looking at and proposing in this report it is just that the tables result in rates we think will make Michigan uncompetitive with neighboring states, but I have outlined a number of changes that could be made to both table one and table two that would make Michigan treat solar development the same way it is in other states. Thank you for your time.

Mike Alaimo spoke before the Commission on behalf of the Michigan Chamber of Commerce regarding Agenda Item #12, Solar Ad hoc Committee Report and Recommendation. Mr. Alaimo stated the following: I am the Director of Environmental and Energy Affairs. Thank you for the opportunity to speak in front of you today regarding the Solar PILT Valuation report. I wanted to express the Michigan Chamber has strong concerns with the findings of the report and the assumptions under which those findings were obtained. I know we have other industry stakeholders speaking to some of those issues and have spoken to those issues so I am not going to duplicate those efforts, but I want to speak more broadly to the potential ramifications this report could have on the solar energy market as a whole in Michigan. As coal and fossil fuel-based power generation technology come offline due to economic factors and environmental concerns the deployment of utility scale solar generations largely seen as critical in ensuring greater liability and competitive rates into the future. So not only do we have utility companies and power developers some of which you have heard from today investing in solar but as important we have Michigan businesses that are increasing and relying on solar in order to have access to clean and affordable energy. In order to achieve the level of solar generation deployment needed to keep energy rates competitive in this state we need to put into place policies that will help incentivize this development. We fear this evaluation report would have the opposite effect. I think as you have already heard this report would make us one of the least competitive marketplaces for solar development in the region and it really is just not the direction, we as a state want to head. Policies to ensure competitive rates for energy consumers is a top priority of the Michigan Chamber. We feel the guard rails need to be put in place that provide stable and encouragement of solar development and generation deployment in the state. A predictability uniformity on cost and taxes for solar installations are key in order to ensure certainty for the developers that rely on long term fixed rates. Creating uncertainty in the marketplace or increasing the costs for power generation will have a negative impact on the grid and increase energy rates for Michigan consumers and businesses. Finally, I just want to add and make note of the Governor's Executive Order 2020-182 which creates the council on climate solutions. The charge for this council as stated by the Governor in said order is to reduce economy wide emissions and ultimately achieve statewide carbon neutrality by 2050 and there is also an interim goal of, I believe 28% reduction by 2035. A very real and quick tight timeline were looking at to see substantiative carbon reductions economy wide looking at all industries and sectors. There will be multiple pathways towards achieving the Governor's goal but unquestionably solar will play a disproportionately significant role in that. The valuation report before the Commission today would ultimately increase the costs of building this critical energy infrastructure and in turn create an impediment towards the Governor's carbon reduction goal. We implore you to take the thoughts and the considerations before you from ourselves and some of our industry stakeholder partners into account today. Thanks so much and appreciate your time.

Ryan Martini spoke before the Commission on behalf of American Clean Power Association regarding Agenda Item #12, Solar Ad Hoc Committee Report and Recommendation. Mr. Martini stated the following: ACP appreciates the opportunity to be a part of this stakeholder process today. We are a trade association representing 800 members including manufactures, owners, purchasers and investors in renewal generation including in Michigan and we work closely with the Clean Grid Alliance who spoke previously. I will keep this brief and also express my support for the statements of Mr. Brady as well.

The three main points I would like to make are in reference to the valuation multipliers and the alternative specific tax as well as economic benefits. On the cost valuation multipliers given the ongoing drop in the price of solar panels and storage systems the replacement cost should reflect the most current cost of the original materials, so ACP supports the committee's recommendation for the use of the original cost valuation multipliers to arrive at current reproduction only replacement costs. As long as those valuation multipliers are appropriately used. We support the updating of these for each year to account for those costs to decline, however, to provide certainty for operating projects we would suggest that multipliers be made in tables for perspective projects to use in future years but not applied retroactively to tables for those same projects.

On the alternative specific tax, the final reports of September 14th propose assessment tables and derive taxes are significantly higher than current solar property tax assessment methods in Michigan. We initially suggested $18,000 per megawatt alternative specific tax represents a 170% increase in tax liability and the revised $12,700 per megawatt remains a 120% increase from taxation based on current assessment methods. The currently proposed taxes not only are higher than the current levels in Michigan but as others have mentioned also significantly higher than nearby states which would likely hinder investments in Michigan in favor of those surrounding states. ACP encourages the Commission to reevaluate some of the methods used to arrive at that level such as the millage rate to a more closely requested rate that will actually be seen by the utility scale solar projects coming in. We support the adjustments in this direction in the September 14th report, but we encourage further ways to find that based on rates local to the current developing solar projects of 2 megawatts or more. It could be adjusted as more and larger projects come online.

Lastly, on economic benefits we believe that with the recent predicted evaluation impact structure in place for solar the industry will be secured to provide significant economic benefits to the State for years to come. Closely paralleling the examples for the growing wind energy industries in the state which currently has thirty-nine utility scale projects that conquered 3200 megawatts representing 5 billion in investments and 67 million in annual state and local taxes for 33 million annual payments directly to landowners. ACP is confident from this experience in the wind industry solar tax policies can help establish new economic factors for communities and directly for landowners. ACP is thankful that you allowed us to speak today in this stakeholder process and we are happy to help the Commission and other stakeholders to develop this valuation and multiplier for solar in Michigan. Thank you.

The Commission also received for their review a letter from Ryan Martini on behalf of American Clean Power regarding Agenda Item #12, Solar Ad Hoc Committee Report and Recommendation. The letter reiterated the information Mr. Martini indicated when he had spoken before the Commission.

The Commission also received for their review a letter from Kenna Mulligan on behalf of Invenergy regarding Agenda Item #12, Solar Ad Hoc Committee Report and Recommendation. The letter indicated Invenergy is a leading, privately held developer and operator of sustainable energy sources. In Michigan, Invenergy has developed five currently operational wind and solar projects and three additional projects are under contract for a total of $1,200 megawatts of generation capacity. Invenergy invests more than $1.6 million annually in local Michigan taxes and pays more than $730,000 in annual wages and benefits. Invenergy indicated the State Tax Commission could have more information available to it if it agrees to confidentiality protections. Invenergy offered more information if a confidentiality agreement could be put in place as provided under Michigan FOIA statute. Invenergy indicated the proposed alternative specific tax is a 90% increase over current Michigan taxation levels. Invenergy also stated the PPA price is not a simple proxy for equipment value. Invenergy thanked the State Tax Commission and Ad Hoc Solar Committee for exploring the valuation of solar equipment and addressing solar personal property taxes and looks forward to continued engagement on this topic.

It was moved by Morris, supported by Kutschman, and unanimously approved Bulletin 11 of 2021 Property Tax Appeal Procedures for 2022. (Item 3 on agenda)

It was moved by Kutschman, supported by Morris, and unanimously approved Bulletin 12 of 2021 Poverty Exemption Audit. (Item 4 on agenda)

It was moved by Morris, supported by Kutschman, and unanimously approved to adopt the 2022 System Economic Factors for Electric Distribution Cooperatives. (Item 5 on agenda)

It was moved by Kutschman, supported by Morris, and unanimously approved three (3) recommendations made by staff and the Education and Certification Committee regarding the interlocal agreements from Otsego, Ontonagon and Missaukee counties that demonstrate the proposed Designated Assessor can ensure that the local units within these counties can achieve and maintain substantial compliance with the General Property Tax Act in the event the Designated Assessor provisions within Public Act 660 of 2018 become necessary. (Item 6 on agenda)

The Commission reviewed the staff recommendation regarding the complaint dated July 1, 2021, filed against assessor Debby Nederhoed that had proceeded to investigatory review pursuant to the State Tax Commission's Complaint Process Regarding Assessment Administration Practices approved by the Commission on December 16, 2015. Upon review of the response provided by the assessor, staff determined that no further action was necessary and recommended the Commission dismiss the complaint. It was moved by Kutschman, supported by Morris, and unanimously approved to adopt the staff's recommendation to take no further action and dismiss the complaint against Debby Nederhoed. (Item 7 on agenda)

It was moved by Morris, supported by Kutschman, and unanimously approved to adopt the official order vacating the August 17, 2021, order and adopting the signed Consent Agreement between the Assessor Discipline Advisory Committee and Ms. Barbara Eaton, holding a formal hearing before the Michigan Office of Administrative Hearings and Rules (MOAHR) in abeyance and Ms. Barbara Eaton voluntary agreeing to voluntary restriction of her assessor certification. Ms. Eaton shall not act as an assessor of record for any additional local units during the time of the restriction. Ms. Eaton may remain assessor of record for the seven local units she is acting as assessor of record. While under restriction Ms. Barbara Eaton shall complete a course on Management Skills, which must be pre-approved by the Executive Director of the State Tax Commission and completed within six months of the date of the order. Ms. Eaton shall remain under disciplinary review until the 2021 Audit of Minimum Assessing Requirements (AMAR) reviews and follow up reviews for all local units for which she is assessor of record have been completed. Following receipt of proof of completion of the required course and staff confirmation of no deficiencies in the 2021 AMAR reviews and follow up reviews, Ms. Barbara Eaton shall receive written notice of release from restriction and discipline. Failure to successfully complete the course within six months of this order or any deficiencies in the 2021 AMAR reviews or follow up reviews shall result in Ms. Barbara Eaton being required to reappear before the Assessor Discipline Advisory Committee. (Item 8 on agenda)

It was moved by Kutschman, supported by Morris, and unanimously approved to adopt the official order to certify and return the 2019 Assessment Roll for Allis Township, Presque Isle County. (Item 9 on agenda)

It was moved by Morris, supported by Kutschman, and unanimously approved to adopt the official order to certify and return the 2019 Assessment Roll for City of Onaway, Presque Isle County. (Item 10 on agenda)

It was moved by Kutschman, supported by Morris, and unanimously approved to adopt the official order to assume jurisdiction of the 2021 Assessment Roll for Forester Township, Sanilac County due to the repetitive results of the AMAR reviews and a lack of understanding by the local assessor of the rates found in the database and order that a State Contractor will be assigned to fix the deficiencies noted in the roll and to complete the work for the 2022 assessment roll. Due to concerns of the assessing practices and errors found in Forester Township it is further ordered that the 2023 assessment roll will be audited for assessing practices and record card accuracy by State Tax Commission staff. The Commission further orders that a bill be sent to Forester Township, Sanilac County covering the time and expenses incurred by the State Tax Commission for implementation of this order. (Item 11 on agenda)

Chairperson Nolde stated the following: Thank you to the people who have come forward today as well as all of them that have taken part in this throughout the last several months. A special thank you to the Solar Ad Hoc Committee. It has been a lot of work a lot of dedication and effort on our parts, so this has not been done on the spur of the moment. Like I said a lot of thought and effort has gone into it a lot of research and while we may not agree we have come to some decisions at this point. For informational purposes, please make it known this committee developed the alternative specific tax based on value and does not include the incentives or reductions. Neither the State Tax Commission nor the Solar Ad Hoc Committee have the authority to enact on specific tax for utility scale solar. The Committee recognizes that any alternative specific tax would be determined through the legislative process and may reflect those incentives and policies that are out there and that are deemed necessary and essential to further the development of the alternative energy in Michigan. With that being said the State Tax Commission today will be voting on approving table one based on two-megawatt name plate capacity or higher solar installation as shown on page 10 of this report. Also, the recommendation of this table be reviewed annually. I think it is very important that we do this and make it part of this and again we keep getting more information and we want this process to be a good one.

It was moved by Kutschman, supported by Morris, and unanimously approved to adopt the Ad Hoc Solar Committee's Table 1 as in the final report and to annually review the tables.

Chairperson Nolde stated the following: At this time the State Tax Commission would like to direct staff to come back with the form for the October meeting for the approved table and to review and again provide recommendations to update previous guidance from the STC regarding solar valuation. (Item 12 on agenda)

It was moved by Morris, supported by Kutschman, and unanimously approved to adopt the staff recommendations on the **Exemptions Agenda**. (Item 13 on agenda) (Exemptions Agenda Link)

It was moved by Kutschman, supported by Morris, and unanimously approved to adopt the MCL 211.154 petitions on the **Concurrence Agenda**. (Item 14 on agenda) (Concurrence Agenda Link)

It was moved by Morris, supported by Kutschman, and unanimously approved to adopt the following staff recommendations for the 2021 Michigan Master Assessing Officer (MMAO) program along with continued updates of the course materials:

- Move one part of the current two-part final exam to be after classes but before appraisal report writing
- Subject and Comparables presented in appraisal report adjustment grids cannot be hypothetical
- Students may only use hypothetical data when calculating adjustments in the appraisal report (paired sales analysis in the work file)
- Hypothetical adjustments used in the appraisal report must not result in a zero adjustment
- Students must have a minimum of four comparables for each approach used in the appraisal report
- Students must have at least three elements of comparison adjustments (other than time) to analyze for the sales and income approaches and at least two elements of comparison adjustments (other than time) for the vacant land approach

Public Comment (Item 15 on agenda):

No member of the public wished to speak at public comment.

The October 12, 2021, Commission meeting is scheduled to take place at the Okemos Conference Center in the Okemos Ballroom A, B & C, 2187 University Park Drive, Okemos. In order to limit the spread of COVID-19, the meeting will also be held virtually via Microsoft Teams. The agenda along with a video and audio link to the virtual meeting will be posted on the State Tax Commission's website at www.michigan.gov/statetaxcommission one week prior to the meeting.

It was moved by Kutschman, supported by Morris, and unanimously approved to adjourn the meeting of the State Tax Commission at 9:57 am.

DATE TYPED: **September 14, 2021**

DATE APPROVED: **October 12, 2021**

Peggy L. Nolde, Chairperson
State Tax Commission

W. Howard Morris, Member
State Tax Commission

Leonard D. Kutschman, Member
State Tax Commission