

Founded in 1852  
by Sidney Davy Miller

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February 26, 2021

Ms. Lisa Felice  
Executive Secretary  
Michigan Public Service Commission  
7109 W. Saginaw Highway, 3rd Floor  
Lansing, MI 48917

Re: Lake AIV, L.P.  
Case No: U-20995

Dear Ms. Felice:

Enclosed for electronic filing is (i) the Joint Application of Axiom UP Holdings LLC and Lake AIV, L.P., for approval, pursuant to MCL 460.6q, for the transfer of control of Upper Peninsula Power Company and related approvals. Also enclosed herewith is the (ii) Notice Opportunity to Comment, (iii) Proposed Notice of Hearing, Proposed Protective Order, (iv) Direct Testimonies and Exhibits of Jeffrey R. Neil, Thierry Vandal, Paulo Arencibia, and Gradon Haehnel, (v) Appearances of Justin Ooms, Laura Chappelle, Sherri Wellman, Paul Collins and Timothy Lundgren, as well as (vi) Proof of Service upon the intervenors in Upper Peninsula Power Company's most recent rate case.

Should you have any questions, please kindly advise.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By: \_\_\_\_\_  
Paul Michael Collins

PMC/ark

Enclosures

**STATE OF MICHIGAN**  
**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

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In the matter of the joint application of	)	
<b>AXIUM UP HOLDINGS LLC and LAKE AIV, L.P.,</b>	)	
for approval, pursuant to	)	<b>Case No. U-20995</b>
MCL 460.6q, for the transfer of control of	)	
<b>UPPER PENINUSLA POWER COMPANY</b>	)	
and related approvals.	)	
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**JOINT APPLICATION**

Pursuant to Section 6q of 2008 PA 286, MCL 460.6q and the Rules Governing Mergers and Acquisitions as adopted by the Michigan Public Service Commission (“MPSC” or the “Commission”), Mich Admin Code, R460.301 to 460.303, **AXIUM UP HOLDINGS LLC (“Axium UP”)** and **LAKE AIV, L.P. (“Lake AIV”)** (jointly referred to as “Joint Applicants”) respectfully request the Commission to grant all necessary approvals in connection with the transfer of ownership and control of Upper Peninsula Power Company (“UPPCO”) from Lake AIV to Axium UP pursuant to the Stock Purchase Agreement (“SPA” or the “Agreement”). In support of this Joint Application, the Joint Applicants state as follows:

**I. THE PARTIES AFFECTED BY THE PROPOSED TRANSACTION**

**A. AXIUM UP HOLDINGS LLC**

1. Axium UP, is a Delaware limited liability company that was created to purchase and hold the Upper Peninsula Power Holding Company (“UPPHC”). Axium UP is managed by Axium Infrastructure US Inc. (“Axium US”) and is an indirect wholly-owned subsidiary of AxInfra US LP and AxInfra US (P-1) LP, together the “US Country Funds”) managed by Axium

US as well. As set forth in this Joint Application and supporting testimony, Axiom UP will acquire 100% of the common stock of the UPPHC.

2. Axiom UP is a wholly owned subsidiary of the US Country Funds managed by Axiom US. Axiom US, together with Axiom Infrastructure Inc. (“Axiom Canada”), are independent infrastructure fund managers dedicated exclusively to long-term, buy-and-hold infrastructure investments. Axiom US manages an open-ended infrastructure fund. Axiom US and its affiliates manage an asset portfolio valued at about \$5.3 billion as of December 2020, comprising over 160 core infrastructure (utilities, transportation, social infrastructure) assets across the United States and Canada.

**B. LAKE AIV, L.P.**

3. Lake AIV is a Delaware limited partnership indirectly owned by Basalt and certain of its limited partners. Lake AIV’s only subsidiary is UPPHC, a holding company that was put in place in 2014 to hold 100% of the shares of UPPCO. UPPHC is a Delaware corporation with principal offices located at 60 East 42<sup>nd</sup> Street Suite 3020, New York 10165. In turn, UPPHC owns 100% of the issued and outstanding shares of the capital stock of UPPCO, a Michigan corporation with a principal place of business at 1002 Harbor Hills Drive, Marquette, Michigan 49855. UPPCO is a public utility engaged in the generation, purchase, distribution, and sale of electric energy to approximately 54,000 retail customers in 118 communities in the Upper Peninsula of Michigan. UPPCO serves certain cities, villages, and townships located in the counties of Alger, Baraga, Delta, Houghton, Iron, Keweenaw, Marquette, Menominee, Ontonagon, and Schoolcraft. UPPCO’s retail electric rates are regulated by the Commission and it is a “Jurisdictional regulated utility” as defined in MCL 460.6q(12)(b).

## **II. SECTION 6q APPROVAL OF THE PROPOSED TRANSACTION**

4. Pursuant to MCL 460.6q(3)(a), parties are required to provide a concise summary of their proposed transaction (“Proposed Transaction”). The terms and conditions of the Proposed Transaction are set forth in the Agreement, which is Exhibit A-5 (JRN-5)<sup>1</sup> to the direct testimony of Jeffrey R. Neil. Under the terms of the Agreement, which has been unanimously approved by the boards of the directors of Axium UP and Lake AIV, Axium UP will acquire 100% of the outstanding common stock of UPPHC (which in turn owns 100% of the outstanding common stock of UPPCO). Pursuant to the SPA, at the closing of the Proposed Transaction, on the terms and subject to the conditions set forth in the Agreement (including receipt of the Commission approvals sought in this Joint Application), Lake AIV will sell, transfer, and deliver to Axium UP all of the issued and outstanding shares of common stock of UPPHC pursuant to the terms of the SPA. If approved by the Commission and upon receipt of all other required regulatory approvals and the submission of various required filings, after the closing of the Proposed Transaction, control of UPPHC and UPPCO would be transferred to Axium UP.

5. Axium UP’s organizational chart after the Proposed Transaction is depicted in Exhibit A-7 (TV-2), as supported in the direct testimony of Thierry Vandal.

6. Consummation of the Proposed Transaction contemplated by the SPA will result in a straight-forward change of ownership of UPPCO, and UPPCO itself will not change. Specifically, UPPCO will continue to operate and provide electric service to its customers as it has for several years now. Therefore, the Proposed Transaction will leave undisturbed all currently effective, applicable rates, tariffs, contracts, and other business relationships of UPPCO. The

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<sup>1</sup> Parts of the SPA and the disclosure schedules contain confidential information and will be submitted pursuant to MCL 460.6q(10) and a protective order.

projected impacts of the Proposed Transaction on customer rates is addressed in the direct testimonies of Thierry Vandal, Jeffrey R. Neil, and Gradon R. Haehnel.

7. The Proposed Transaction will not adversely affect the continued provision of safe and reliable electric service by UPPCO to its customers. After closing on the Proposed Transaction electric service will continue to be provided by the same personnel doing the same job they do now. Further, the Proposed Transaction will have no effect on the Commission's ability to regulate UPPCO's rates and operations.

8. The Proposed Transaction will not change the physical location of UPPCO's corporate offices.

9. The Proposed Transaction does not raise issues regarding competition or market power. Further, Axium UP represents in the direct testimony of Paulo Arencibia that it will not seek rate recovery of any acquisition premiums, costs or fees resulting from or incurred in connection with the Proposed Transaction.

10. Financial statements relevant to the Proposed Transaction regarding accounting entries and capital structures are described in the direct testimonies of Paulo Arencibia and Jeffrey R. Neil. The Proposed Transaction will not adversely impact UPPCO's cost of providing service or expose UPPCO's assets to additional risks.

11. Axium UP has a plan to restructure the debt of UPPCO in order to save the company and its customers money over the long term, and plans to continue UPPCO's movement towards increasing use of renewable energy generation resources located in the Upper Peninsula of Michigan consistent with the Integrated Resource Plan approved by the Commission in Case No. U-20350.

12. Axium UP plans to restructure the debt issued by UPPCO and UPPHC. The new financing structure will include new third party UPPCO debt in an amount that would bring the UPPCO debt/capitalization ratio exactly to the approved 46.0%. This issuance would be used to pay off the existing intercompany loan issued by UPPCO to UPPHC, as well as any outstanding balance on the UPPCO revolver at transaction close. The new UPPCO issuance will be a 30-year, interest-only note bond with a coupon of 3.59% (T+165 basis points or "bps"). DBRS has provided an investment grade indicative rating of BBB+ for UPPCO based on this structure. This interest rate is lower than the current cost of debt of 4.46% authorized by the Commission's Order in UPPCO's most recent rate case issued in Case No. U-20276. Due to the long-term nature of the 30-year bond that will be put in place, UPPCO's customers will benefit from long-term stability provided by the new financing structure.

13. Axium UP also plans to put in place a new \$75.0 million revolving credit facility at UPPCO which would be used to fund future capex in line with the approved regulatory debt/cap. This will provide UPPCO the flexibility to fund capex as needed, without the requirement of issuing new long-term debt each year, while providing customers with the benefit of lower-cost, short-term debt in the near-term while an outstanding balance on the revolver exists. As UPPCO utilizes the new, lower-cost revolver to fund capital expenditures, the weighted average cost of debt at UPPCO is expected to further decrease over the next five years below 4.00%.

14. Consistent with UPPCO's Integrated Resource Plan, Axium UP expects to contribute equity in order to fund a portion of UPPCO's planned utility-scale solar capital expenditures, which will allow UPPCO to maintain the debt/equity ratio specified in the Commission's Order in Case No. U-20276. Because Axium UP is an affiliate of the Axium Infrastructure funds, it has access constantly to capital raised through the fund structure and is not

constrained to a maximum amount of equity that can be contributed to UPPCO or a time period where equity can be contributed to UPPCO.

15. To the extent required by applicable law, the parties will make filings with the Federal Energy Regulatory Commission regarding the change in control of UPPCO. Additionally, the parties to the proposed transaction will make submissions to the Federal Trade Commission and the Antitrust Division of the Department of Justice as required by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 USC Sec. 18a. Copies of these filing will be made in this case as they become available.

### **III. ADDITIONAL REQUIRED INFORMATION**

16. The names and addresses of the persons authorized to receive notices and communications about this Joint Application, including phone and fax numbers and e-mail addresses, are set forth below:

#### **AXIUM UP HOLDINGS LLC**

Tim Lundgren  
Varnum LLP  
201 North Washington Square  
Suite 910  
Lansing, MI 48933  
Tel: 616-336-6750  
Fax: 517-482-6937  
Email: [tjlundgren@varnumlaw.com](mailto:tjlundgren@varnumlaw.com)

Jonathan M.A. Melmed  
King & Spalding LLP  
1185 Avenue of the Americas  
New York, NY 10036  
Tel: 212-556-2344  
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**LAKE AIV, L.P.**

Sherri A. Wellman  
Paul M. Collins  
Miller Canfield Paddock and Stone PLC  
One Michigan Avenue, Suite 900  
Lansing, Michigan 48933  
Telephone: (517) 487-2070  
Fax: (517) 374-6304  
E-mail: [wellmans@millercanfield.com](mailto:wellmans@millercanfield.com)  
[collinsp@millercanfield.com](mailto:collinsp@millercanfield.com)

17. The testimony and exhibits accompanying this Joint Application are submitted in compliance with the filing requirements of the Commission's Mergers and Acquisitions Rules, Mich Admin Code R 460.301 – 460.303.

18. The parties' preference would be to close on the Proposed Transaction by June 30, 2021. If that closing date could be achieved, it would simplify many of the accounting and financial adjustments associated with closing "true ups". The desire to close on the Proposed Transaction by the June 30, 2021 date also arises, in part, from a belief that a shorter period of interim operations under the SPA would minimize any potential uncertainty caused by the pendency of the Proposed Transaction, regardless of the "business as usual" nature of the Proposed Transaction.

**IV. ALL STATUTORY STANDARDS FOR APPROVAL ARE SATISFIED**

19. Axium UP and Lake AIV respectfully submit that all statutory standards for Commission approval of the Proposed Transaction are satisfied.

20. The Proposed Transaction will not have an adverse impact on the existing rates of the customers of UPPCO, nor on the existing contractual relationships of UPPCO.

21. Should the Commission grant the approval requested herein, Axium UP will not seek rate recovery from UPPCO customers for any transaction costs, acquisition premiums,



goodwill or control premiums incurred in connection with the Proposed Transaction. The Proposed Transaction will leave undisturbed all of UPPCO's currently effective and applicable rates, tariffs, and contractual relationships.

22. The Proposed Transaction will not have an adverse impact on the provision of safe and reliable electric service by UPPCO, as its offices and operations will remain intact, and Axiom UP expects to retain all existing UPPCO workforce. Additionally, the SPA contains commitments that include (i) honoring UPPCO's collective bargaining agreements, (ii) maintaining UPPCO's existing compensation and benefit arrangements for a period of 24 months following closing of the Proposed Transaction, and (iii) continuing existing charitable contributions and practices for no less than 5 years following closing of the Proposed Transaction. These commitments are intended to help ensure that, from the customer's and community's perspective, their experiences with UPPCO will remain unchanged.

23. The Proposed Transaction will not result in the subsidization of any non-regulated activity of Axiom UP through the rates paid by the customers of UPPCO. UPPCO will continue to be a separate corporate entity providing service and will be subject to the Commission's rate-making authority, affiliate requirements and cost allocation principles.

24. The Proposed Transaction will not impair the ability of UPPCO to raise necessary capital or to maintain a reasonable capital structure. In fact, as discussed in the direct testimony of Paulo Arencibia, the Proposed Transaction will increase UPPCO's access to capital and the debt restructuring plan is expected to improve UPPCO's credit rating and decrease UPPCO's cost of debt. Mr. Haehnel's direct testimony addresses the expected effects of the proposed debt restructuring on UPPCO's cost of debt.

25. The Proposed Transaction is consistent with public policy and interest.

**V. PRAYER FOR RELIEF**

WHEREFORE, Axium UP and Lake AIV respectfully request that the Commission issue an order by June 30, 2021, including the following:

- A. Approving pursuant to MCL 460.6q the Joint Application and the Proposed Transaction, by which Axium UP will purchase from Lake AIV 100% of the capital stock of UPPHC resulting in a change in ownership of UPPCO.
- B. Granting all other Commission approvals necessary to the consummation of the transactions contemplated by the Stock Purchase Agreement; and
- C. Granting such further relief as the Commission deems reasonable and appropriate.

Respectfully submitted,

AXIUM UP HOLDINGS LLC

**Timothy  
Lundgren**

Digitally signed by: Timothy Lundgren  
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tjlundgren@varnumlaw.com C = US O =  
Varnum  
Date: 2021.02.26 13:38:41 -05'00'

Dated: February 26, 2021

By:

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One of Its Attorneys  
Timothy J. Lundgren (P62807)  
Laura A. Chappelle (P42052)  
VARNUM LLP  
201 N. Washington Square, Suite 910  
Lansing, MI 48933  
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Attorneys for AXIUM UP HOLDINGS LLC

LAKE AIV, L.P

**Paul Collins**

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Dated: February 26, 2021

By: \_\_\_\_\_

One of Its Attorneys  
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Attorneys for LAKE AIV, L.P.

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**STATE OF MICHIGAN**  
**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

\* \* \* \* \*

In the matter of the joint application of	)	
<b>AXIUM UP HOLDINGS LLC and LAKE AIV, L.P.,</b>	)	
for approval, pursuant to	)	<b>Case No. U-20995</b>
MCL 460.6q, for the transfer of control of	)	
<b>UPPER PENINUSLA POWER COMPANY</b>	)	
and related approvals.	)	
_____	)	

**NOTICE OF OPPORTUNITY TO COMMENT**

On February 26, 2021, Axium UP Holdings LLC and Lake AIV, L.P. filed a joint application with the Michigan Public Service Commission for approval pursuant to MCL 460.6q for the sale by Lake AIV, L.P., and purchase by Axium UP Holdings LLC of 100% of the capital stock of Upper Peninsula Power Holding Company which is the sole owner of Upper Peninsula Power Company.

Any interested person may review the joint application at the offices of Upper Peninsula Power Company, 1002 Harbor Hills Dr., Marquette, MI 49855 or Lake AIV, L.P.'s attorneys, Miller Canfield Paddock and Stone PLC, One Michigan Avenue, Lansing, Michigan, or Axium UP Holdings LLC's attorneys, Varnum, LLP, 201 N. Washington Square, Suite 910, Lansing, Michigan , or on the Commission's website at: [Michigan.gov/mpscdockets](http://Michigan.gov/mpscdockets).

Written and electronic comments may be filed with the Commission and must be received no later than 5:00 p.m. on \_\_\_\_\_, 2021. Written comments should be electronically filed in Case No. U-20995, or emailed to [mpscdockets@michigan.gov](mailto:mpscdockets@michigan.gov). Written comments may also be sent to the Executive Sectary, Michigan Public Service Commission, P.O. Box 30221, Lansing, Michigan 48909 with a copy mailed to Paul Collins at Miller, Canfield, Paddock and Stone PLC, One Michigan Avenue, Lansing, Michigan 48933 and to Timothy Lundgren at Varnum, LLP, 201 N. Washington Square, Suite 910, Lansing, Michigan 48933. Electronic comments may be emailed to: [mpscdockets@michigan.gov](mailto:mpscdockets@michigan.gov). All

comments should reference Case No. U-20995. Comments received in this matter will become public information, posted on the Commission's website, subject to disclosure.

AXIUM UP HOLDINGS LLC and LAKE AIV, L.P.

37196460.1/160017.00001

**STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION  
NOTICE OF HEARING  
FOR THE ELECTRIC CUSTOMERS OF  
UPPER PENINSULA POWER COMPANY  
CASE NO. U-20995**

- The Michigan Public Service Commission will review the joint application of Axium UP Holdings LLC and Lake AIV, L.P. for approval of the proposed transfer of ownership and control of Upper Peninsula Power Company, pursuant to MCL 460.6q.
- The information below describes how a person may participate in this case.
- You may contact Upper Peninsula Power Company, 1002 Harbor Hills Dr., Marquette, MI 49855 or Lake AIV, L.P.'s attorneys, Miller Canfield Paddock and Stone PLC, One Michigan Avenue, Lansing, Michigan, or Axium UP Holdings LLC's attorneys, Varnum, LLP, 201 N. Washington Square, Suite 910, Lansing, Michigan for a free copy of the joint application. The joint application may also be reviewed at these offices.
- A pre-hearing will be held:

**DATE/TIME:**       ,       , 2021 at

**BEFORE:**       Administrative Law Judge

**LOCATION:**       Video/Teleconferencing

**PARTICIPATION:**   Any interested person may participate. Persons needing any assistance to participate should contact the Commission's Executive Secretary at (517) 284-8090, or by email at [mpscdockets@michigan.gov](mailto:mpscdockets@michigan.gov) in advance of the hearing.

The Michigan Public Service Commission (Commission) will hold a public hearing to consider the February 26, 2021 joint application and proposed transaction of Axium UP Holdings LLC and Lake AIV, L.P., which seeks the Commission's approval: a) of Lake AIV, L.P. to sell 100% of the capital stock of Upper Peninsula Power Holding Company (the sole owner of Upper Peninsula Power Company) to Axium UP Holdings LLC; and b) to consummate the transactions contemplated by the Stock Purchase Agreement.

All documents filed in this case shall be submitted electronically through the Commission's E-Dockets website at: [michigan.gov/mpscdockets](http://michigan.gov/mpscdockets). Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to: [mpscdockets@michigan.gov](mailto:mpscdockets@michigan.gov). If you require assistance prior to e-filing, contact Commission staff at (517) 284-8090 or by email at: [mpscdockets@michigan.gov](mailto:mpscdockets@michigan.gov).

Any person wishing to intervene and become a party to the case shall electronically file a petition to intervene with this Commission by \_\_\_\_\_, 2021. (Interested persons may elect to file using the traditional paper format.) The proof of service shall indicate service upon Lake AIV,

L.P.'s attorney, Paul Collins, Miller Canfield Paddock and Stone PLC, One Michigan Avenue, Lansing, Michigan 48933, and Axium UP Holdings LLC's attorney Tim Lundgren, Varnum, LLP, 201 N. Washington Square, Suite 910, Lansing, Michigan 48933.

The prehearing is scheduled to be held remotely by video conference or teleconference. Persons filing a petition to intervene will be advised of the process to participate in the hearing.

Any person wishing to participate without intervention under Mich Admin Code, R 792.10413 (Rule 413), or file a public comment, may do so by filing a written statement in this docket. The written statement may be mailed or emailed and should reference Case No. **U-20995**. Statements may be emailed to: [mpscedockets@michigan.gov](mailto:mpscedockets@michigan.gov). Statements may be mailed to: Executive Secretary, Michigan Public Service Commission, 7109 West Saginaw Hwy., Lansing, MI 48917. All information submitted to the Commission in this matter becomes public information, thus available on the Michigan Public Service Commission's website, and subject to disclosure. Please do not include information you wish to remain private. For more information on how to participate in a case, you may contact the Commission at the above address or by telephone at (517) 284-8090.

Requests for adjournment must be made pursuant to Michigan Office of Administrative Hearings and Rules R 792.10422 and R 792.10432. Requests for further information on adjournment should be directed to (517) 284-8130.

A copy of the joint applicants' application may be reviewed on the Commission's website at: [michigan.gov/mpscedockets](http://michigan.gov/mpscedockets), and at the office of Upper Peninsula Power Company. For more information on how to participate in a case, you may contact the Commission at the above address or by telephone at (517) 284-8090.

The Utility Consumer Representation Fund has been created for the purpose of aiding in the representation of residential utility customers in various Commission proceedings. Contact the Chairperson, Utility Consumer Participation Board, Department of Licensing and Regulatory Affairs, P.O. Box 30004, Lansing, Michigan 48909, for more information.

Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.54 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; 1982 PA 304, as amended, MCL 460.6h et seq.; and Parts 1 & 4 of the Michigan Office of Administrative Hearings and Rules, Mich. Admin Code, R 792.10106 and R 792.10401 through R 792.10448.

**STATE OF MICHIGAN**

**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

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In the matter of the joint application of	)	
<b>AXIUM UP HOLDINGS LLC and LAKE AIV, L.P.,</b>	)	
for approval, pursuant to	)	<b>Case No. U-20995</b>
MCL 460.6q, for the transfer of control of	)	
<b>UPPER PENINUSLA POWER COMPANY</b>	)	
and related approvals.	)	
_____	)	

**PROTECTIVE ORDER**

This Protective Order governs the use and disposition of Protected Material that Axium UP Holdings LLC, Lake AIV, L.P. (“Applicants”), Upper Peninsula Power Holding Company (“UPPHC”), Upper Peninsula Power Company (“UPPCO”) or any other Party in this case discloses to another Party during the course of this proceeding. The intent of this Protective Order is to protect non-public confidential information and materials so designated by the producing/disclosing party including, but not limited to, pursuant to MCL 460.6q(10). The Applicants, UPPHC, UPPCO or other Party disclosing Protected Material is referred to as the “Disclosing Party”; the recipient is the “Receiving Party” (defined further below). The intent of this Protective Order is to protect non-public, confidential information and materials. This Protective Order defines “Protected Material” and describes the manner in which Protected Material is to be identified and treated. Accordingly, it is ordered:

**I. “Protected Material” and Other Definitions**

A. For the purposes of this Protective Order, “Protected Material” consists of trade secrets or confidential, proprietary, or commercially sensitive information to be provided by Disclosing Party in materials responsive to MCL 460.6q and any testimony, exhibits or workpapers



describing the Protected Material. Subject to challenge under Paragraph IV.A, Protected Material also includes the following information disclosed during the course of this case if it is marked as required by this Protective Order:

1. Trade secrets or confidential, proprietary, or commercially sensitive information provided in response to discovery, in response to an order issued by the presiding officer or the Michigan Public Service Commission ("MPSC" or the "Commission"), in testimony or exhibits filed later in this case, or in arguments of counsel.

2. Information obtained under license from a third-party licensor, to which the Disclosing Party or witnesses engaged by the Disclosing Party is a licensee, that is subject to any confidentiality or non-transferability clause. This information includes reports; analyses; models (including related inputs and outputs); trade secrets; and confidential, proprietary, or commercially sensitive information that the Disclosing Party or one of its witnesses receives as a licensee and is authorized by the third-party licensor to disclose consistent with the terms and conditions of this Protective Order.

3. Information that could identify the bidders and bids, including the winning bid, in a competitive solicitation for, including but not limited to, a power purchase agreement or in a competitively bid engineering, procurement, or construction contract at any stage of the selection process (i.e., before the Disclosing Party has entered into a power purchase agreement or selected a contractor).

B. The information subject to this Protective Order does not include:

1. Information that is or has become available to the public through no fault of the Receiving Party or Reviewing Representative and no breach of this Protective Order, or information that is otherwise lawfully known by the Receiving Party without any obligation to hold it in confidence;

2. Information received from a third party free to disclose the information without restriction;

3. Information that is approved for release by written authorization of the Disclosing Party, but only to the extent of the authorization;

4. Information that is required by law or regulation to be disclosed, but only to the extent of the required disclosure; or

5. Information that is disclosed in response to a valid, non-appealable order of a court of competent jurisdiction or governmental body, but only to the extent the order requires.

C. "Party" refers to the Applicants, UPPHC, UPPCO, MPSC Staff (Staff), Michigan Attorney General, or any other person, company, organization, or association that is granted

intervention in this Case No. U-20995 under the Commission's Rules of Practice and Procedure. Mich Admin Code, R 792.10401 et al.

D. "Receiving Party" means any Party to this proceeding who requests or receives access to Protected Material, subject to the requirement that each Reviewing Representative sign a Nondisclosure Certificate attached to this Protective Order as Attachment 1.

E. "Reviewing Representative" means a person who has signed a Nondisclosure Certificate and who is:

1. an attorney who has entered an appearance in this proceeding for a Receiving Party;
2. an attorney, paralegal, or other employee associated, for the purpose of this case, with an attorney described in Paragraph I.E.1;
3. an expert or employee of an expert retained by a Receiving Party to advise, prepare for, or testify in this proceeding; or
4. an employee or other representative of a Receiving Party with significant responsibility in this case.

A Reviewing Representative is responsible for assuring that persons under his or her supervision and control comply with this Protective Order.

F. "Nondisclosure Certificate" means the certificate attached to this Protective Order as Attachment 1, which is signed by a Reviewing Representative who has been granted access to Protected Material and agreed to be bound by the terms of this Protective Order.

## **II. Access to and Use of Protected Material**

A. This Protective Order governs the use of all Protected Material that is marked as required by Paragraph III.A and made available for review by the Disclosing Party to any Receiving Party or Reviewing Representative. This Protective Order protects: 1) the Protected Material; 2) any copy or reproduction of the Protected Material made by any person; and 3) any memorandum, handwritten notes, or any other form of information that

copies, contains, or discloses Protected Material. All Protected Material in the possession of a Receiving Party shall be maintained in a secure place. Access to Protected Material shall be limited to persons authorized to have access subject to the provisions of this Protective Order.

B. Protected Material shall be used and disclosed by the Receiving Party solely in accordance with the terms and conditions of this Protective Order. A Receiving Party may authorize access to and use of Protected Material by a Reviewing Representative identified by the Receiving Party, subject to Paragraphs III and V below, only as necessary to analyze the Protected Material; make or respond to discovery; present evidence; prepare testimony, argument, briefs, or other filings; prepare for cross-examination; consider strategy; and evaluate settlement. These individuals shall not release or disclose the content of Protected Material to any other person or use the information for any other purpose.

C. The Disclosing Party retains the right to object to any designated Reviewing Representative if the Disclosing Party has reason to believe that there is an unacceptable risk of misuse of confidential information. If a Disclosing Party objects to a Reviewing Representative, the Disclosing Party and the Receiving Party will attempt to reach an agreement to accommodate that Receiving Party's request to review Protected Material. If no agreement is reached, then either the Disclosing Party or the Receiving Party may submit the dispute to the presiding officer. If the Disclosing Party notifies a Receiving Party of an objection to a Reviewing Representative, then the Protected Material shall not be provided to that Reviewing Representative until the objection is resolved by agreement or by the presiding officer.

D. Before reviewing any Protected Material, including copies, reproductions, and copies of notes of Protected Material, a Receiving Party and Reviewing Representative shall sign a copy of the Nondisclosure Certificate (Attachment 1 to this Protective Order) agreeing to

be bound by the terms of this Protective Order. The Reviewing Representative shall also provide a copy of the executed Nondisclosure Certificate to the Disclosing Party.

E. Even if no longer engaged in this proceeding, every person who has signed a Nondisclosure Certificate continues to be bound by the provisions of this Protective Order. The obligations under this Protective Order are not extinguished or nullified by entry of a final order in this case and are enforceable by the MPSC or a court of competent jurisdiction. To the extent Protected Material is not returned to a Disclosing Party, it remains subject to this Protective Order.

F. Members of the Commission, Commission Staff assigned to assist the Commission with its deliberations, and the presiding officer shall have access to all Protected Material that is submitted to the Commission under seal without the need to sign the Nondisclosure Certificate.

G. A Party retains the right to seek further restrictions on the dissemination of Protected Material to persons who have or may subsequently seek to intervene in this MPSC proceeding.

H. Nothing in this Protective Order precludes a Party from asserting a timely evidentiary objection to the proposed admission of Protected Material into the evidentiary record for this case.

### **III. Procedures**

A. The Disclosing Party shall mark any information that it considers confidential as “CONFIDENTIAL: SUBJECT TO THE PROTECTIVE ORDER ISSUED ON [INSERT DATE] IN CASE NO. U-20995.” If the Receiving Party or a Reviewing Representative makes copies of any Protected Material, they shall conspicuously mark the copies as Protected Material. Notes of Protected Material shall also be conspicuously marked as Protected Material by the person making the notes.

B. If a Receiving Party wants to quote, refer to, or otherwise use Protected Material in pleadings, pre-filed testimony, exhibits, cross-examination, briefs, oral argument, comments, or in some other form in this proceeding (including administrative or judicial appeals), the Receiving Party shall do so consistent with procedures that will maintain the confidentiality of the Protected Material. For purposes of this Protective Order, the following procedures apply:

1. Written submissions using Protected Material shall be filed in a sealed record to be maintained by the MPSC's Docket Section, or by a court of competent jurisdiction, in envelopes clearly marked on the outside, "CONFIDENTIAL — SUBJECT TO THE PROTECTIVE ORDER ISSUED IN CASE NO. U-20995." Simultaneously, identical documents and materials, with the Protected Material redacted, shall be filed and disclosed the same way that evidence or briefs are usually filed.

2. Oral testimony, examination of witnesses, or argument about Protected Material shall be conducted on a separate record to be maintained by the MPSC's Docket Section or by a court of competent jurisdiction. These separate record proceedings shall be closed to all persons except those furnishing the Protected Material and persons otherwise subject to this Protective Order. The Receiving Party presenting the Protected Material during the course of the proceeding shall give the presiding officer or court sufficient notice to allow the presiding officer or court an opportunity to take measures to protect the confidentiality of the Protected Material.

3. Copies of the documents filed with the MPSC or a court of competent jurisdiction, which contain Protected Material, including the portions of the exhibits, transcripts, or briefs that refer to Protected Material, must be sealed and maintained in the MPSC's or court's files with a copy of the Protective Order attached.

C. It is intended that the Protected Material subject to this Protective Order should be shielded from disclosure by a Receiving Party only to the extent permitted by law. If any person files a request under the Freedom of Information Act with the MPSC or the Michigan Attorney General seeking access to documents subject to this Protective Order, the MPSC's Executive Secretary, Staff, or the Attorney General shall promptly notify the Disclosing Party, and the Disclosing Party may take whatever legal actions it deems appropriate to protect the Protected Material from disclosure. In light of Section 5 of the Freedom of Information Act, MCL 15.235, the notice must be given at least five (5) business days before the MPSC, its Staff, and/or the Michigan Attorney General grant the request in full or in part.

#### **IV. Termination of Protected Status**

A. A Receiving Party reserves the right to challenge whether a document or information is Protected Material and whether this information can be withheld under this Protective Order. In response to a motion or on its own initiative, the Commission or the presiding officer in this case may revoke a document's protected status after notice and hearing. If the presiding officer revokes a document's protected status, then the document loses its protected status after 14 days unless a Party files an application for leave to appeal the ruling to the Commission within that time period. Any Party opposing the application for leave to appeal shall file an answer with the Commission no more than 14 days after the filing and service of the appeal. If an application is filed, then the information will continue to be protected from disclosure until either the time for appeal of the Commission's final order resolving the issue has expired under MCL 462.26 or, if the order is appealed, until judicial review is completed and the time to take further appeals has expired.

B. If a document's protected status is challenged under Paragraph IV.A, then the Disclosing Party bears the burden of proving that the document should continue to be protected from disclosure.

#### **V. Retention of Documents**

A. Protected Material remains the property of the Disclosing Party and only remains available to the Receiving Party until the time expires for petitions for rehearing of a final MPSC order in this Case No. U-20995 or until the MPSC has ruled on all petitions for rehearing in this case (if any). However, an attorney for a Receiving Party who has signed a Nondisclosure Certificate and who is representing the Receiving Party in an appeal from an MPSC final order in this case may retain copies of Protected Material until either the time for appeal of the Commission's final order resolving the issue has expired under MCL 462.26 or, if the order is

appealed, until judicial review is completed and the time to take further appeals has expired. On or before the time specified by the preceding sentences, the Receiving Party shall return to the Disclosing Party all Protected Material in its possession or in the possession of its Reviewing Representatives—including all copies and notes of Protected Material—or certify in writing to the Disclosing Party that the Protected Material has been destroyed.

B. Notwithstanding the preceding paragraph, Counsel for a Receiving Party may maintain a single confidential file of Protected Material beyond the resolution of this proceeding, provided that this Protective Order will continue in effect with respect to the Protected Material for so long as it is retained by counsel for any requesting Party. Counsel for a Requesting Party may also retain, without time limitation, a single unredacted copy of any Counsel's own briefs (not including any confidential attachments) that contain information derived from Protected Material, subject to continued confidential treatment in accordance with all obligations of this Protected Order.

## **VI. Limitations and Disclosures**

The provisions of this Protective Order do not apply to a particular document, or portion of a document, described in Paragraph II.A if a Receiving Party can demonstrate that it has been previously disclosed by the Disclosing Party on a non-confidential basis or meets the criteria set forth in Paragraphs I.B.1 through I.B.5. A Receiving Party intending to disclose information taken directly from materials identified as Protected Material must—before actually disclosing the Information do one of the following: 1) contact the Disclosing Party's counsel of record and obtain written permission to disclose the information, or 2) challenge the confidential nature of the Protected Material and obtain a ruling under Paragraph IV that the information is not confidential and may be disclosed in or on the public record.

## **VII. Remedies**

If a Receiving Party violates this Protective Order by improperly disclosing or using Protected Material, the Receiving Party shall take all necessary steps to remedy the improper disclosure or use. This includes immediately notifying the MPSC, the presiding officer, and the Disclosing Party, in writing, of the identity of the person known or reasonably suspected to have obtained the Protected Material. A Party or person that violates this Protective Order remains subject to this paragraph regardless of whether the Disclosing Party could have discovered the violation earlier than it was discovered. This paragraph applies to both inadvertent and intentional violations. Nothing in this Protective Order limits the Disclosing Party's rights and remedies, at law or in equity, against a Party or person using Protected Material in a manner not authorized by this Protective Order, including the right to obtain injunctive relief in a court of competent jurisdiction to prevent violations of this Protective Order.

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Administrative Law Judge



STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the joint application of )  
**AXIUM UP HOLDINGS LLC and LAKE AIV, L.P.,** )  
for approval, pursuant to ) **Case No. U-**  
MCL 460.6q, for the transfer of control of )  
**UPPER PENINUSLA POWER COMPANY** )  
and related approvals. )  
\_\_\_\_\_ )

**NONDISCLOSURE CERTIFICATE**

By signing this Nondisclosure Certificate, I acknowledge that access to Protected Material is provided to me under the terms and restrictions of the Protective Order issued in Case No. U-20995, that I have been given a copy of and have read the Protective Order, and that I agree to be bound by the terms of the Protective Order. I understand that the substance of the Protected Material (as defined in the Protective Order), any notes from Protected Material, or any other form of information that copies or discloses Protected Material, shall be maintained as confidential and shall not be disclosed to anyone other than in accordance with the Protective Order.

Reviewing Representative

Date: \_\_\_\_\_

\_\_\_\_\_  
Title:

Representing:

37196499.1/160017.00001

In the matter of the joint application of )  
**AXIUM UP HOLDINGS LLC and LAKE AIV, L.P.,** )  
for approval, pursuant to MCL 460.6q, for the transfer of )  
control of **UPPER PENINSULA POWER** )  
**COMPANY,** and related approvals. )

Case No. U-20995

**DIRECT TESTIMONY AND EXHIBITS OF JEFFREY R. NEIL**

**Q1. State your name and briefly describe your business relationships with the joint applicants in this proceeding.**

A1. My name is Jeffrey R. Neil. My business address is One Grand Central Place, Suite 3020, 60 East 42<sup>nd</sup> Street, New York, NY 10165. I am a partner with Basalt Infrastructure Partners LLP ("Basalt") in its New York office. I am also a director of Upper Peninsula Power Holding Company ("UPPHC"), Upper Peninsula Power Company ("UPPCO") and Texas Microgrid, LLC, which are portfolio companies of Basalt Infrastructure Partners L.P .

**Q2. Describe your professional background.**

A2. I am a partner in Basalt and serve as its co-Head of North America, where I am responsible for advising on the origination and ongoing management of infrastructure investments by Basalt, primarily in North America. I am also a member of the Basalt Investment Committee, which makes investment and divestment recommendations to Basalt. Previously, I was an Investment Director focused on European infrastructure at AMP Capital Investors ("AMP"), where I was responsible for origination and execution and ongoing management of infrastructure investments in Europe, focused on the energy and utilities sectors. Prior to joining AMP in 2005, I worked for Duke Energy, focusing

1 on the origination and execution of structured energy and commodity transactions. I hold  
2 a Bachelor of Arts degree from American University in Washington, D.C. in  
3 International Relations with a minor in Economics.

4 A copy of my current CV is attached as **Exhibit A-1 (JRN-1)**.  
5

6 **Q3. Have you previously testified before the Michigan Public Service Commission (the**  
7 **"Commission") or other state or federal regulatory agencies?**

8 A3. Yes. I submitted testimony in the Case No. U-17564 which addressed MCL 460.6q  
9 approval of the transfer of UPPCO in 2014 from Integrys Energy Group, Inc. ("Integrys")  
10 (prior to the acquisition of Integrys by WEC Energy Group, Inc.), to Balfour Beatty  
11 Infrastructure Partners, L.P. ("BBIP"), through BBIP's indirect ownership of Lake AIV,  
12 LP ("Lake AIV") and Lake AIV's ownership of all of the outstanding stock of UPPHC.  
13 Since the date of that acquisition, BBIP changed its name to Basalt Infrastructure  
14 Partners, LLP. Accordingly, throughout the balance of my testimony, where applicable I  
15 will refer to the fund as Basalt.  
16

17 **Q4. What is the purpose of your testimony in this proceeding?**

18 A4. The primary purpose of my testimony is to support Commission approval of the Joint  
19 Application in this matter pursuant to Sec. 6q of 2008 PA 286, MCL 460.6q and Rules  
20 301-303 of the Commission's Rules Governing Mergers and Acquisitions, Mich Admin  
21 Code, R 460.301-303.  
22

23 **Q5. Are you sponsoring any exhibits?**

1 A5. Yes. I am sponsoring the exhibits listed below. These exhibits were prepared by me or  
2 under my direction and supervision.

3 Exhibit A-1 (JRN-1) Current CV

4 Exhibit A-2 (JRN-2) Excerpts from UPPCO 2019 Annual Reports (Real and  
5 Personal Property)

6 Exhibit A-3 (JRN-3) Excerpts from UPPCO 2019 Annual Reports (State and  
7 Local Taxes)

8 Exhibit A-4 (JRN-4) Corporate Organizational Charts

9 Exhibit A-5 (JRN-5) Stock Purchase Agreement dated as of  
10 January 22, 2021

11 Exhibit A-6 (JRN-6) Filings made in other jurisdictions. [Placeholder]  
12 Schedule 1: FERC Section 203 Application  
13 Schedule 2: FERC Section 204 Application  
14 Schedule 3: FCC Filing  
15 Schedule 4: Hart Scotts Rodino Filing  
16

17 **Q6. What topics do you address in your testimony?**

18 A6. I discuss the following topics in my testimony:

- 19 • A description of the current and post-closing corporate organizational structures,  
20 including descriptions of various entities within the current corporate structure.
- 21 • A summary of Case No. U-17564 post-closing efforts to build a standalone  
22 UPPCO.
- 23 • My view of why the proposed transaction that is the subject of the Joint  
24 Application (as defined below, the "Proposed Transaction") should be approved  
25 by the Commission.
- 26 • A summary description of the Proposed Transaction.
- 27 • A detailed description of why Lake AIV entered into the Stock Purchase  
28 Agreement (as defined below).

- Key provisions of the Stock Purchase Agreement (as defined below) that support Commission approval of the Proposed Transaction.
- The financial and capital structure information required by R 460.303(1).
- The other transaction-related filings required by R 460.303(1)(j).
- The preferred timetable for closing the Proposed Transaction and the reasons for that timetable.

(i) **Description of UPPCO**

**Q7. Describe UPPCO.**

A7. UPPCO is a public utility engaged in the generation, purchase, distribution and sale of electric energy to approximately 54,000 retail customers in 118 communities in the Upper Peninsula (“UP”) of Michigan. UPPCO serves certain cities, villages and townships located in the counties of Alger, Baraga, Delta, Houghton, Iron, Keweenaw, Marquette, Menominee, Ontonagon, and Schoolcraft. UPPHC owns 100% of the issued and outstanding shares of the capital stock of UPPCO. As explained in the Joint Application, UPPCO is subject to regulation by the Commission.

**Q8. UPPCO was acquired from Integrys, pursuant to a June 6, 2014 Commission order in Case No. U-17564. Could you please summarize the efforts and the results of building UPPCO as a standalone utility after the acquisition?**

A8. Yes. Prior to the acquisition of UPPCO through Lake AIV in 2014, UPPCO was a wholly-owned subsidiary of Integrys and one of a number of regulated utilities in the Integrys family of companies. At that time, UPPCO relied on Integrys, the parent company, or one or more of the operating utility companies, to perform a number of

1 services and functions for UPPCO, with many of those services or functions being  
2 provided by Integrys employees residing outside the state of Michigan. UPPCO was  
3 purchased in 2014 and following a transition period involving service agreements with  
4 Integrys that were put in place in connection with the sale, UPPCO became a fully  
5 independent, UP-based company in February of 2017 when those transition service  
6 agreements ended and UPPCO became a fully stand-alone utility. During the transition  
7 period, UPPCO hired more than 50 additional employees, set up a new headquarters in  
8 Marquette and installed all new computer systems, including SAP finance and SCADA.  
9 UPPCO also set up a NERC-certified System Operations Center (SOC), the only one  
10 located in the UP. In essence, UPPCO became a fully operational stand-alone utility in  
11 the UP, with virtually its entire workforce resident in the UP as well.

12  
13 **Q9. What has been the impact of restoring these positions to the local community?**

14 A9. Overall, UPPCO has added more than 50 full-time jobs to the UP for services that were  
15 previously provided out of state. These new jobs are highly skilled positions that include  
16 employees in engineering, accounting, human resources, legal as well as the UPPCO  
17 executive team. Over the same period, UPPCO has also been able to reduce power supply  
18 costs and distribution rates to its residential customers. UPPCO has also taken very  
19 active roles in many local organizations, and UPPCO's local presence and activity has  
20 been significantly enhanced since being acquired by Basalt, resulting in demonstrated  
21 improvements in its ability to listen to its customers and provide better customer service.

22  
23 **Q10. What other impacts have benefited the community?**

1 A10. The addition of these jobs has had a positive effect on the local economy, as well as  
2 charitable giving. In fact, UPPCO and its employees, have become the largest  
3 contributor to the United Way of Marquette County for the last 2 years. UPPCO  
4 employees are also very active in many community organizations.

5  
6  
7  
8  
9 (ii) *Current and Post-Closing Corporate Structures*  
10

11 **Q11. Describe Lake AIV and its subsidiaries.**

12 A11. Lake AIV is a Delaware limited partnership indirectly owned by Basalt and certain of its  
13 limited partners. Lake AIV's only subsidiary is UPPHC, a holding company that was put  
14 in place in 2014 to hold 100% of the shares of UPPCO. UPPHC is a Delaware  
15 corporation with principal offices located at 60 East 42<sup>nd</sup> Street Suite 3020, New York  
16 10165. In turn, UPPHC owns UPPCO, a Michigan corporation with a principal place of  
17 business at 1002 Harbor Hills Drive, Marquette, Michigan 49855.

18  
19 **Q12. Is the corporate structure of Lake AIV, UPPHC and UPPCO depicted on**  
20 **organization charts?**

21 A12. Yes. **Exhibit A-4 (JRN-4)** shows the organizational chart for the current corporate  
22 structure. This chart shows that Lake AIV's only subsidiaries are UPPHC and UPPCO.  
23 Similarly, UPPHC's only subsidiary is UPPCO, and UPPCO has no subsidiaries.

24  
25 **Q13. Where may more detailed information about the real and personal property of**  
26 **UPPCO be found?**

1 A13. More detailed information about the jurisdictional real and personal property owned,  
2 operated, or controlled by UPPCO is set forth in **Exhibit A-2 (JRN-2)**, which consists of  
3 excerpts from the annually filed FERC Form 1, which was previously submitted to the  
4 Commission for 2019.

5  
6 **Q14. Where may information about current state and local tax liabilities of UPPCO be**  
7 **found?**

8 A14. That information may be found in **Exhibit A-3 (JRN-3)**, which consists of excerpts from  
9 the MPSC Form P-521, which was previously submitted to the Commission for 2019.

10  
11  
12 (iii) *The Basis for Commission Approval of the Proposed Transaction*  
13

14 **Q15. Briefly describe the subject matter of the Joint Application.**

15 A15. In the Joint Application, the joint applicants seek Commission approval to consummate  
16 the transactions set forth in the Stock Purchase Agreement dated as of January 22, 2021,  
17 by and among **AXIUM UP HOLDINGS LLC** and **LAKE AIV, L.P.** (the "Stock  
18 Purchase Agreement" or "SPA"). This request includes all approvals required for Axiom  
19 UP Holdings LLC ("Axiom") to control UPPHC and UPPCO upon and after the closing  
20 of the transactions set forth in the SPA. I refer to this transaction as the "Proposed  
21 Transaction." I am sponsoring a true and correct copy of the execution version of the  
22 Stock Purchase Agreement as **Exhibit A-5 (JRN-5)**. This exhibit contains confidential  
23 business information, and so has been filed in a redacted version in the public record,  
24 while an unredacted, confidential version will be submitted pursuant to a Protective  
25 Order.



**Q16. What is your understanding of the standards for approval of the Joint Application?**

A16. I am not a lawyer, but my understanding is that the provisions of the relevant Michigan statute provide that:

A person shall not . . . control . . . , directly or indirectly, . . . a jurisdictional regulated utility . . . without first applying to and receiving the approval of the commission.

The commission shall consider among other factors all of the following in its evaluation of whether or not to approve a proposed . . . transfer [of control] . . . :

- (a) Whether the proposed action would have an adverse impact on the rates of the customers affected by the . . . transfer [of control] . . . ;
- (b) Whether the proposed action would have an adverse impact on the provision of safe, reliable, and adequate energy service in this state;
- (c) Whether the action will result in the subsidization of a nonregulated activity of the new entity through rates paid by the customers of the jurisdictional regulated utility;
- (d) Whether the action will significantly impair the jurisdictional regulated utility's ability to raise necessary capital or to maintain a reasonable capital structure; and
- (e) Whether the action is otherwise inconsistent with public policy and interest.

I also understand that, in two rulemakings, the Commission provided guidance on the kinds of transactions requiring its approval and said what topics should be addressed in approval applications. Applicants must provide:

- Descriptive information about each applicant and the jurisdictional regulated utilities involved in the proposed transaction. R460.303(1)(a)-(c).
- Organizational charts depicting pre- and post-transaction corporate structures. R460.303(1)(d).
- A description of the proposed transaction, including the parties involved and the terms and conditions of the transaction, and a detailed explanation of the reasons for entering into the transaction. This required information includes all transaction documents. R460.303(1)(e), (g), (y).
- A description of projected transaction-related impacts on customer rates and service, including information about the proposed ratemaking

treatment of transaction costs, acquisition premiums, and similar items and any transaction-related savings credits. R460.303(1)(f), (q), (s).

- A statement explaining why the proposed transaction is consistent with the public interest, including a general explanation of the effect of the transaction on competition and rates. The required data also includes information about the effect of the proposed transaction on market power. R460.303(1)(h), (t).
- Certain financial information, including pro forma financial statements and proposed accounting entries as well as state and local tax liability information. R460.303(1)(i), (k), (u).
- Copies of other transaction-related regulatory filings and transaction-related orders. R460.303(1)(j).
- Pre- and post-transaction capital structure and cost data. R460.303(1)(l), (m), (r).
- A description of commitments related to: (i) corporate charitable contributions and community support; (ii) existing corporate offices in Michigan; (iii) the current workforce; (iv) safeguards for stabilizing wages and benefits; and (v) commitments not contained in various transaction documents. R460.303(1)(n), (p), (v), (w), (x).
- A description of the degree of risk assumed by jurisdictional regulated utility customers for liabilities arising from activities not regulated by the Commission. R460.303(1)(o).

I have included this background information in my testimony for two primary reasons.

This information identifies the factors to be considered by the Commission in evaluating the Proposed Transaction. It also provides a roadmap or checklist for my testimony and Mr. Haehnel's testimony, and the testimony submitted by Mr. Vandal and Mr. Arencibia on behalf of Axium, in the sense that we cover all of the required items in our testimony.

**Q17. In your opinion, is Commission approval of the Proposed Transaction warranted?**

A17. Yes. In my opinion, the Proposed Transaction should be approved based on the information and for the reasons set forth in the Joint Application, my testimony, Mr. Haehnel's testimony and the testimony of Mr. Vandal and Mr. Arencibia.

1 **Q18. Explain in more detail why you believe that Commission approval of the Joint**  
2 **Application in this proceeding is warranted.**

3 A18. From my perspective, approval of the Joint Application is warranted because:

- 4 • The Proposed Transaction involves a straight-forward change of stock ownership  
5 – namely, a change in the ultimate investor from one infrastructure fund to  
6 another infrastructure fund -- such that, after the Proposed Transaction closes,  
7 UPPCO will continue to exist as a corporate entity and with all of its operations  
8 unchanged.
- 9 • This means, among other things, that the Proposed Transaction will leave  
10 undisturbed the currently-effective rates, tariffs, and contractual, employment-  
11 related, and various other relationships of UPPCO.
- 12 • The Proposed Transaction also will not adversely affect the continued provision  
13 of safe, reliable, and adequate electric utility service by UPPCO in the State of  
14 Michigan because, after the closing on the Proposed Transaction, electric utility  
15 service will continue to be provided to customers by the same personnel based in  
16 the same offices, including UPPCO's Marquette headquarters, doing the same  
17 work that they do now.
- 18 • It is noteworthy that important commitments were included in the Stock Purchase  
19 Agreement to maintain continuity in the UPPCO workforce and thus help provide  
20 for the continued provision of safe, reliable, and accessible electric utility service  
21 to UPPCO customers.

- Because only the ownership of UPPHC will change (from Lake AIV to Axium) and UPPCO will continue to exist as a corporate entity after the closing, the Proposed Transaction will have no effect on competition or market power.
- Generally speaking, the Proposed Transaction is a "vote of confidence" in the State of Michigan as a good place to do business.

(iv) *Summary Description of the Proposed Transaction*

**Q19. Summarize the Proposed Transaction.**

A19. Basically:

- Lake AIV currently owns 100% of the issued and outstanding shares of the common stock of UPPHC.
- UPPHC currently owns 100% of the issued and outstanding shares of the common stock of UPPCO.
- At the closing of the Proposed Transaction, on the terms and subject to the conditions set forth in the Stock Purchase Agreement (including receipt of the Commission approvals sought in the Joint Application), Lake AIV will sell, transfer, and deliver to Axium all of the issued and outstanding shares of common stock of UPPHC pursuant to the terms of the Stock Purchase Agreement.
- If approved by the Commission and upon receipt of all other required regulatory approvals and the submission of various required filings, after the closing of the Proposed Transaction, control of UPPHC and UPPCO would be transferred to Axium.

1 **Q20. Are there things that you wish to point out about the Proposed Transaction?**

2 A20. Yes. First, as I said, the Proposed Transaction involves a straight-forward change of  
3 ownership. As a result, after the Proposed Transaction closes, UPPCO will continue to  
4 exist as a corporate entity. That this is true is best seen by comparing Exhibit A-4 (JRN-  
5 4) and the post-closing corporate organizational chart appended to the testimony of Mr.  
6 Vandal as Exhibit A-8 (TV-2).

7 Second, while (as I said) I am not an attorney, my experience with utility  
8 transactions tells me that, among other things, when it is closed, the Proposed Transaction  
9 will leave undisturbed, as applicable, the currently-effective rates, tariffs, and contractual,  
10 employment-related, and other relationships of UPPCO. This is because the change in  
11 ownership of UPPCO on the corporate organizational chart is being accomplished by the  
12 sale of the common stock of UPPHC. In that sense, Axium is simply being substituted  
13 for Lake AIV as the investor/owner of UPPHC.

14  
15  
16 (v) *Reasons for Entering into the Stock Purchase Agreement*  
17

18 **Q21. Briefly describe the context for the decision by Lake AIV to enter into the Stock**  
19 **Purchase Agreement.**

20 A21. As an infrastructure fund investor, Basalt continually evaluates its investment portfolio  
21 holdings, taking into account among other things its business plan and objectives for its  
22 portfolio companies, such as UPPCO. As noted above, since acquiring UPPCO in 2014,  
23 Basalt successfully completed its principal objectives for UPPCO by transforming the  
24 company from a utility heavily reliant on its former utility holding company parent for  
25 critical services, many of which were performed outside of Michigan, into a self-

1 sufficient stand-alone and well operated utility with an enhanced focus on the UP and  
2 serving its customers, communities and other stakeholders in the UP. UPPCO will soon  
3 be embarking on its plan, consistent with its approved Integrated Resource Plan (“IRP”),  
4 to implement the development and construction of new renewable generation resources  
5 as part of the expansion of its generation portfolio to meet the needs of its customers, as  
6 well to enhance the reliability and resiliency of its distribution system. In light of the fact  
7 that Basalt, as a limited duration infrastructure fund, would likely have contemplated a  
8 sale of UPPCO at some point over the next 3-4 years in any event, this seemed to be a  
9 particularly opportune time to bring on a well-capitalized new investor for UPPCO, to  
10 allow UPPCO to make the capital investments and improvements to its system that will  
11 benefit its customers, its other stakeholders and the UP over the foreseeable future  
12 consistent with the IRP.

13  
14 **Q22. With that description as context, how would you characterize the Proposed**  
15 **Transaction?**

16 A22. The Proposed Transaction, in essence, is nothing more than a change in ownership. The  
17 same employees will continue to serve customers by doing the same jobs at the same  
18 offices, as they do today. As discussed later in my testimony, Axium was willing to  
19 make commitments in the Stock Purchase Agreement with respect to employees,  
20 maintaining UPPCO’s headquarters in Michigan and maintaining charitable contribution  
21 levels, and, thus the continuity of current operations. This last element can be  
22 characterized as making commitments that "things will not change" as a result of the

1 Proposed Transaction and thus, in my view, should be considered as a significant positive  
2 aspect of the Proposed Transaction.

3  
4  
5 (vi) *Key Provisions of the Stock Purchase Agreement*  
6

7 **Q23. Please discuss the key provisions of the Stock Purchase Agreement as they pertain**  
8 **to UPPCO.**

9 A23. The Stock Purchase Agreement, which is sponsored as **Exhibit A-5 (JRN-5)**, contains  
10 the following key provisions to which the parties have agreed:

11 (i) maintain UPPCO's current employee compensation levels and benefits (or, if  
12 changes to benefits are made, ensure that employees enjoy substantially comparable  
13 benefit levels, in the aggregate), for at least 24 months after the closing of the Proposed  
14 Transaction (SPA, Section 6.6(a));

15 (ii) honor all commitments under UPPCO's collective bargaining agreements  
16 (SPA, Section 6.6 (b));

17 (iii) maintain UPPCO's existing corporate offices in Michigan and, other than in  
18 UPPCO's normal course of business, not alter the existing office locations (SPA, Section  
19 6.15(a)); and

20 (iv) continue UPPCO's existing charitable contribution practices and community  
21 support practices in its service territory and in amounts no less than those in effect today  
22 for no less than five (5) years after the closing of the Proposed Transaction (SPA, Section  
23 6.15(b).

24 Lake AIV sought to include these contractual protections in the SPA to provide  
25 assurance that it would be "business as usual" for UPPCO and its employees in all

1 material respects post-closing and Axium agreed to undertake these post-closing  
2 commitments to preserve the continuity of UPPCO's business and operations.

3  
4 **Q24. Discuss in more detail the comment you made that "things will not change" as a**  
5 **result of the Proposed Transaction and the basis for that statement.**

6 A24. If the Joint Application is approved and the Proposed Transaction closes, UPPCO will  
7 continue to exist as a corporate entity, with the same experienced team of employees  
8 doing the same jobs and working from the same offices. This means that, from the  
9 perspectives of both customers and employees, things on the operational side at UPPCO  
10 will remain essentially the same as they are today.

11 I see this aspect of the Proposed Transaction as a significant positive for three  
12 primary reasons: 1) UPPCO has seen a significant improvement in operations and  
13 customer service since returning to its roots as a stand-alone utility headquartered in  
14 Marquette - this will allow these improvements to continue; 2) Continuity is important to  
15 customers – they will be dealing with the same business entities and the same people in  
16 the same roles, at the same offices and this makes the Proposed Transaction and the  
17 change in UPPCO's ultimate owner essentially invisible to them; and 3) The same can be  
18 said for various community organizations and vendors whose existing relationships will  
19 be unaffected by the Proposed Transaction.

20  
21 **Q25. Do you mean that nothing will ever change at UPPCO after the closing on the**  
22 **Proposed Transaction?**



1 A25. No. Changes occur all of the time in any business in part because there should be a  
2 continuing focus on finding better ways to do things and also because business  
3 organizations are comprised of human beings and, therefore, are always adapting to  
4 personal decisions and business events. What I mean is that, in my view, given the way  
5 the Proposed Transaction is structured and the commitments made in the Stock Purchase  
6 Agreement, the Proposed Transaction itself will not be a driver of changes.

7  
8 (vii) *Corporate and Capital Structure and Accounting Entries*  
9

10 **Q26. What will the corporate structure of Lake AIV look like after the closing of the**  
11 **Proposed Transaction?**

12 A26. Refer to **Exhibit A-4 (JRN-4)**. The organizational chart for Lake AIV will look the same  
13 after the Proposed Transaction, except that UPPHC and UPPCO will be removed.  
14

15 **Q27. Please describe the capital structure of Lake AIV prior to the closing of the**  
16 **Proposed Transaction, including (i) the amounts and types of equity, (ii) the terms**  
17 **of preference stock, whether cumulative or participating, or on dividends or assets,**  
18 **or otherwise, (iii) the amount of bonds authorized and issued, describing each class**  
19 **separately and giving the dates of issue, par value, rate of interest, date of maturity,**  
20 **and how secured and (iv) other indebtedness, if any.**

21 A27. Lake AIV's capital structure as of January 1, 2021, is similar to UPPHC, as UPPHC and  
22 UPPCO are Lake AIV's primary assets. Lake AIV has not issued any preferred stock, and  
23 Lake AIV has not incurred any debt specific to UPPCO or UPPHC.

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**Q28. Please describe the capital structure of Lake AIV after the closing of the Proposed Transaction.**

A28. After the closing of the Proposed Transaction, the capital structure of Lake AIV will change only inasmuch as UPPHC and UPPCO will be replaced with the net transaction proceeds.

**Q29. The Commission’s rule, R460.303(1)(k), requires the submission of accounting entries showing the effect of the Proposed Transaction, including effects on all account balances, on the income statement, and on other relevant financial statements. Have you provided such information?**

A.29 Yes. Please see Exhibit A-16 (GL-4).

**(viii) Additional Information**

**Q30. Comment on the other regulatory approvals and filings required in connection with the Proposed Transaction.**

A30. Filings must be made with the Federal Energy Regulatory Commission (“FERC”), the Federal Communications Commission (“FCC”), and the federal Department of Justice and Federal Trade Commission (“DOJ/FTC”). Two filings are required to be made with FERC: one, a joint filing, seeking approval of the acquisition under Section 203 of the Federal Power Act and, second, a filing by UPPCO for approval under Section 204 of the Federal Power Act for the issuance of certain indebtedness by UPPCO in connection with the financing plan for the acquisition (including the refinancing of existing indebtedness

1 of UPPCO), as described in the Axiom testimony prepared by Mr. Arencibia. FCC  
2 approval is required in connection with the indirect change in control over certain FCC  
3 jurisdictional licenses held by UPPCO, such as certain radio or microwave licenses.  
4 Clearance of the Proposed Transaction is also required from the DOJ/FTC under the  
5 Hart-Scott-Rodino Antitrust Improvements Act of 1976.

6 Copies of the FERC filings are sponsored as **Exhibit A-6 (JRN-6)**. These filings  
7 will be made with FERC simultaneously with the submission of this filing with the  
8 Commission. The filings with the FCC and the DOJ/FTC are anticipated to be filed  
9 within the next few months, and, once made, the joint applicants will promptly file with  
10 the Commission copies of these filings and any orders issued by any of the foregoing  
11 agencies with respect to the Proposed Transaction.

12  
13 **Q31. Provide the names and addresses of persons authorized to receive inquiries, on**  
14 **behalf of Lake AIV and communications about the Joint Application, including**  
15 **telephone and facsimile numbers and e-mail addresses for those persons.**

16 A31. The names and addresses of those persons and other requested contact information appear  
17 below:

18 Sherri A. Wellman  
19 Paul M. Collins  
20 Miller Canfield Paddock and Stone PLC  
21 One Michigan Avenue, Suite 900  
22 Lansing, Michigan 48933  
23 Telephone: (517) 487-2070  
24 Fax: (517) 374-6304  
25 E-mail: wellmans@millercanfield.com  
26 collinsp@millercanfield.com

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29 **(ix) Preferred Closing Timetable for the Proposed Transaction**

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**Q32. What is the preferred timetable for closing on the Proposed Transaction and why?**

A32. The parties’ preference would be to close on the Proposed Transaction by June 30, 2021. If that closing date could be achieved, it would simplify many of the accounting and financial adjustments associated with closing “true ups” and the like by having a clean mid-year cut off for the change in control. Having said that, the parties appreciate that the Commission will need to undertake a thorough review and analysis of the Proposed Transaction. The detailed submissions of the joint applicants in this case are intended to aid the Commission in completing the case expeditiously and within the applicable six-month time frame for issuance of such orders. The desire to close on the Proposed Transaction by the June 30, 2021 date also arises, in part, from a belief that a shorter period of interim operations under the Stock Purchase Agreement would minimize any potential uncertainty caused by the pendency of the Proposed Transaction, regardless of the “business as usual” nature of the Proposed Transaction. Also, as a straight-forward change in ownership, the Proposed Transaction presents a simpler case for approval than other more complex transactions, especially in view of the efforts of the parties to the Stock Purchase Agreement to anticipate and address various factors that might affect the judgment made by the Commission in this matter.

**Q33. Do you have anything else to add on this topic?**

A33. Yes. I urge the Commission to consider the Proposed Transaction favorably and move as expeditiously as possible to approve the Joint Application.

1    **Q34. Does that conclude your pre-filed direct testimony in this proceeding?**

2    A34. Yes, it does.

## JEFFREY NEIL

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Experienced infrastructure investment manager with over 24 years' specialist experience in origination and execution of equity investments in infrastructure assets. Experienced in all phases of investment cycle, including origination of investment opportunities, asset management and valuation, transaction structuring and execution and asset divestment. Substantial transaction experience in gas, power, water and renewable energy sectors.

### EXPERIENCE

11/2010 – Present **BASALT INFRASTRUCTURE PARTNERS**, New York

*Founding Partner and Co-Head of North American Operations*

- Overall responsibility for origination and ongoing asset management effort for Basalt equity investments in North America, including active board participation, new opportunity origination, asset valuation and appraisal, and transaction execution.
- Serve on the Board of Directors for several portfolio companies, including Upper Peninsula Power Company, Texas Microgrid, LLC (power generation and grid stability) and Hyperion, LLC (solar generation). In my capacity as a director, work closely with portfolio company management in order to safe and reliable operations, effective business management and to promote asset optimization initiatives.
- Member of the investment committee for Basalt Infrastructure Partners

8/2005 – 11/2010 **AMP CAPITAL INVESTORS**, London

*Investment Director*

- Led origination and ongoing asset management effort for energy-related equity investments in Europe, including opportunity origination, valuation and appraisal, and transaction execution.
- Responsibility in all phases of opportunity appraisal and execution, including: asset valuation; selection and coordination/management of advisors; transaction structuring; negotiation with co-investors; presentation to investment committee and management of internal approvals and funding process.
- Responsible for ongoing asset management including regular review of management results and tracking performance against Investment Case assumptions, interaction with senior management team of portfolio companies and interaction with co-investors where required for consensus at Board level.
- Worked closely with portfolio company management in order to meet the investment case and to promote asset optimization initiatives.

10/2002 – 7/2005 **MatrixC Limited**, London

*Consultant*

- Retained by European renewable energy player to prepare renewable energy development projects for project financing, including quantification of pro forma cashflows, preparation of project information documentation and identification of potential funding sources and structures.
- Developed acquisition target list in the Northwest European upstream and midstream oil and gas sector for a UK-based oil and gas producer. Targets were selected according to client's strategic criteria (e.g. tail-end production, potential for enhanced production, potential future use as storage).
- Focused on energy asset portfolio optimisation. Evaluated asset characteristics/capabilities, performed analysis and valuation of underlying contracts and created and implemented structures and transactions to increase portfolio value through both optimisation and use of

imbedded asset flexibility in the existing portfolio and strategic growth of the portfolio through acquisitions of physical and contractual supply and services.

9/2001 - 9/2002 **Duke Energy International (Europe), London**

*Business Development*

- Business Developer responsible for deal origination and execution in Western Europe.
- Monitored market and competitor activity to identify acquisition opportunities and built country/regional development strategies.
- Managed origination and valuation of upstream and midstream energy asset (producing fields, power plants, storage facilities) transactions, including cash flow modeling, financial due diligence and analysis and deal structuring and terms negotiation with counterparties.
- Originated, structured and negotiated long-term gas purchase contracts. Transactions were highly structured to meet the requirements of both producers and Duke's gas desk and made use of risk management mechanisms.

1996 - 2001

**Enron Corp.**

*Joined Enron's analyst and associate program in 1996. Rotations completed between 1996 and 2001:*

10/1999 – 7/2001 *Associate, Enron Europe Limited, London*

- Member of a six person team evaluating and executing M&A and structured financing opportunities.
- Created valuation models for proposed acquisitions, debt and equity financing of small-medium oil/gas companies.
- Negotiated with investment banks and third parties on financing structure and terms.
- Executed a €10 million strategic equity investment in a European telecommunications co-location company. Managed entire process from initial appraisal to due diligence to negotiation of final shareholder agreement and share price.

7/1998 – 9/1999 *Associate, Enron North America, Portland, Oregon, U.S.*

- Worked to provide groundwork analysis for asset valuation and prepared acquisition bids for three power generation and distribution assets in the western United States.

11/1996 – 7/1998 *Analyst, Enron International, Houston, Texas, U.S.*

- Worked with multi-disciplinary teams to create deal and project finance structures for asset acquisitions and development projects. Led groundwork financial analysis for over 15 greenfield power plant development projects in Latin America and the Middle East.

1993 – 1996

**Booz Allen & Hamilton, McLean, Virginia, U.S.**

*Senior Consultant*

- Researched and analyzed environmental and utility regulation in the United States and Central Europe and marketed Booz Allen consulting services to multilateral development banks and development agencies focused on Central and Eastern Europe.

## EDUCATION

1989 - 1993

**THE AMERICAN UNIVERSITY**

Bachelor of Arts, International Studies and Economics

## ADDITIONAL INFORMATION

- Nationality/Visa Status: United States citizen
- Languages: English (native), Italian (operational)
- Date of Birth: February 1, 1971

MPSC Case No. U-20995

Exhibit A-2 (JRN-2)



Name of Respondent	This Report Is:	Date of Report (Mo, Da, Yr)	Year/Period of Report
Upper Peninsula Power Company	(1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	05/01/2020	End of 2019/Q4

**COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS)**

Line No.	Title of Account (a)	Ref. Page No. (b)	Current Year End of Quarter/Year Balance (c)	Prior Year End Balance 12/31 (d)
<b>1</b>	<b>UTILITY PLANT</b>			
2	Utility Plant (101-106, 114)	200-201	358,268,048	337,458,940
3	Construction Work in Progress (107)	200-201	11,178,822	18,691,315
4	TOTAL Utility Plant (Enter Total of lines 2 and 3)		369,446,870	356,150,255
5	(Less) Accum. Prov. for Depr. Amort. Depl. (108, 110, 111, 115)	200-201	150,954,923	146,395,802
6	Net Utility Plant (Enter Total of line 4 less 5)		218,491,947	209,754,453
7	Nuclear Fuel in Process of Ref., Conv., Enrich., and Fab. (120.1)	202-203	0	0
8	Nuclear Fuel Materials and Assemblies-Stock Account (120.2)		0	0
9	Nuclear Fuel Assemblies in Reactor (120.3)		0	0
10	Spent Nuclear Fuel (120.4)		0	0
11	Nuclear Fuel Under Capital Leases (120.6)		0	0
12	(Less) Accum. Prov. for Amort. of Nucl. Fuel Assemblies (120.5)	202-203	0	0
13	Net Nuclear Fuel (Enter Total of lines 7-11 less 12)		0	0
14	Net Utility Plant (Enter Total of lines 6 and 13)		218,491,947	209,754,453
15	Utility Plant Adjustments (116)		0	0
16	Gas Stored Underground - Noncurrent (117)		0	0
<b>17</b>	<b>OTHER PROPERTY AND INVESTMENTS</b>			
18	Nonutility Property (121)		12,477,429	12,592,708
19	(Less) Accum. Prov. for Depr. and Amort. (122)		2,372,531	2,193,840
20	Investments in Associated Companies (123)		0	0
21	Investment in Subsidiary Companies (123.1)	224-225	0	0
22	(For Cost of Account 123.1, See Footnote Page 224, line 42)			
23	Noncurrent Portion of Allowances	228-229	0	0
24	Other Investments (124)		0	0
25	Sinking Funds (125)		0	0
26	Depreciation Fund (126)		0	0
27	Amortization Fund - Federal (127)		0	0
28	Other Special Funds (128)		10,388,610	6,267,797
29	Special Funds (Non Major Only) (129)		0	0
30	Long-Term Portion of Derivative Assets (175)		0	0
31	Long-Term Portion of Derivative Assets – Hedges (176)		0	0
32	TOTAL Other Property and Investments (Lines 18-21 and 23-31)		20,493,508	16,666,665
<b>33</b>	<b>CURRENT AND ACCRUED ASSETS</b>			
34	Cash and Working Funds (Non-major Only) (130)		0	0
35	Cash (131)		2,230,922	1,043,947
36	Special Deposits (132-134)		314,811	2,116,154
37	Working Fund (135)		0	0
38	Temporary Cash Investments (136)		0	0
39	Notes Receivable (141)		0	0
40	Customer Accounts Receivable (142)		10,120,903	9,071,580
41	Other Accounts Receivable (143)		1,390,985	1,523,901
42	(Less) Accum. Prov. for Uncollectible Acct.-Credit (144)		1,700,000	1,735,000
43	Notes Receivable from Associated Companies (145)		0	0
44	Accounts Receivable from Assoc. Companies (146)		0	0
45	Fuel Stock (151)	227	80,926	420,438
46	Fuel Stock Expenses Undistributed (152)	227	0	0
47	Residuals (Elec) and Extracted Products (153)	227	0	0
48	Plant Materials and Operating Supplies (154)	227	2,156,817	2,333,466
49	Merchandise (155)	227	0	0
50	Other Materials and Supplies (156)	227	0	0
51	Nuclear Materials Held for Sale (157)	202-203/227	0	0
52	Allowances (158.1 and 158.2)	228-229	0	0

MPSC Case No. U-20995

Exhibit A-2 (JRN-2)

Name of Respondent Upper Peninsula Power Company	This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 05/01/2020	Year/Period of Report End of 2019/Q4
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COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS)(Continued)

Line No.	Title of Account (a)	Ref. Page No. (b)	Current Year End of Quarter/Year Balance (c)	Prior Year End Balance 12/31 (d)
53	(Less) Noncurrent Portion of Allowances		0	0
54	Stores Expense Undistributed (163)	227	764,180	590,218
55	Gas Stored Underground - Current (164.1)		0	0
56	Liquefied Natural Gas Stored and Held for Processing (164.2-164.3)		0	0
57	Prepayments (165)		2,033,110	1,441,049
58	Advances for Gas (166-167)		0	0
59	Interest and Dividends Receivable (171)		0	0
60	Rents Receivable (172)		0	0
61	Accrued Utility Revenues (173)		5,559,284	4,600,378
62	Miscellaneous Current and Accrued Assets (174)		611,552	42,885
63	Derivative Instrument Assets (175)		28,452	45,147
64	(Less) Long-Term Portion of Derivative Instrument Assets (175)		0	0
65	Derivative Instrument Assets - Hedges (176)		0	0
66	(Less) Long-Term Portion of Derivative Instrument Assets - Hedges (176		0	0
67	Total Current and Accrued Assets (Lines 34 through 66)		23,591,942	21,494,163
68	DEFERRED DEBITS			
69	Unamortized Debt Expenses (181)		927,662	1,039,542
70	Extraordinary Property Losses (182.1)	230a	0	0
71	Unrecovered Plant and Regulatory Study Costs (182.2)	230b	0	0
72	Other Regulatory Assets (182.3)	232	47,220,862	51,805,572
73	Prelim. Survey and Investigation Charges (Electric) (183)		1,304,041	410,288
74	Preliminary Natural Gas Survey and Investigation Charges 183.1)		0	0
75	Other Preliminary Survey and Investigation Charges (183.2)		0	0
76	Clearing Accounts (184)		-70,731	-8,816
77	Temporary Facilities (185)		0	0
78	Miscellaneous Deferred Debits (186)	233	169,274	156,010
79	Def. Losses from Disposition of Utility Plt. (187)		0	0
80	Research, Devel. and Demonstration Expend. (188)	352-353	0	0
81	Unamortized Loss on Reaquired Debt (189)		0	0
82	Accumulated Deferred Income Taxes (190)	234	51,906,111	52,771,688
83	Unrecovered Purchased Gas Costs (191)		0	0
84	Total Deferred Debits (lines 69 through 83)		101,457,219	106,174,284
85	TOTAL ASSETS (lines 14-16, 32, 67, and 84)		364,034,616	354,089,565

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Name of Respondent Upper Peninsula Power Company		This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission		Date of Report (Mo, Da, Yr) 05/01/2020	Year/Period of Report End of 2019/Q4
SUMMARY OF UTILITY PLANT AND ACCUMULATED PROVISIONS FOR DEPRECIATION. AMORTIZATION AND DEPLETION					
Report in Column (c) the amount for electric function, in column (d) the amount for gas function, in column (e), (f), and (g) report other (specify) and in column (h) common function.					
Line No.	Classification (a)	Total Company for the Current Year/Quarter Ended (b)		Electric (c)	
1	Utility Plant				
2	In Service				
3	Plant in Service (Classified)	349,247,858		349,247,858	
4	Property Under Capital Leases				
5	Plant Purchased or Sold				
6	Completed Construction not Classified	9,020,190		9,020,190	
7	Experimental Plant Unclassified				
8	Total (3 thru 7)	358,268,048		358,268,048	
9	Leased to Others				
10	Held for Future Use				
11	Construction Work in Progress	11,178,822		11,178,822	
12	Acquisition Adjustments				
13	Total Utility Plant (8 thru 12)	369,446,870		369,446,870	
14	Accum Prov for Depr, Amort, & Depl	150,954,923		150,954,923	
15	Net Utility Plant (13 less 14)	218,491,947		218,491,947	
16	Detail of Accum Prov for Depr, Amort & Depl				
17	In Service:				
18	Depreciation	137,928,674		137,928,674	
19	Amort & Depl of Producing Nat Gas Land/Land Right				
20	Amort of Underground Storage Land/Land Rights				
21	Amort of Other Utility Plant	13,026,249		13,026,249	
22	Total In Service (18 thru 21)	150,954,923		150,954,923	
23	Leased to Others				
24	Depreciation				
25	Amortization and Depletion				
26	Total Leased to Others (24 & 25)				
27	Held for Future Use				
28	Depreciation				
29	Amortization				
30	Total Held for Future Use (28 & 29)				
31	Abandonment of Leases (Natural Gas)				
32	Amort of Plant Acquisition Adj				
33	Total Accum Prov (equals 14) (22,26,30,31,32)	150,954,923		150,954,923	

Name of Respondent Upper Peninsula Power Company	This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 05/01/2020	Year/Period of Report End of 2019/Q4
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**ELECTRIC PLANT IN SERVICE (Account 101, 102, 103 and 106)**

- Report below the original cost of electric plant in service according to the prescribed accounts.
- In addition to Account 101, Electric Plant in Service (Classified), this page and the next include Account 102, Electric Plant Purchased or Sold; Account 103, Experimental Electric Plant Unclassified; and Account 106, Completed Construction Not Classified-Electric.
- Include in column (c) or (d), as appropriate, corrections of additions and retirements for the current or preceding year.
- For revisions to the amount of initial asset retirement costs capitalized, included by primary plant account, increases in column (c) additions and reductions in column (e) adjustments.
- Enclose in parentheses credit adjustments of plant accounts to indicate the negative effect of such accounts.
- Classify Account 106 according to prescribed accounts, on an estimated basis if necessary, and include the entries in column (c). Also to be included in column (c) are entries for reversals of tentative distributions of prior year reported in column (b). Likewise, if the respondent has a significant amount of plant retirements which have not been classified to primary accounts at the end of the year, include in column (d) a tentative distribution of such retirements, on an estimated basis, with appropriate contra entry to the account for accumulated depreciation provision. Include also in column (d)

Line No.	Account (a)	Balance Beginning of Year (b)	Additions (c)
1	1. INTANGIBLE PLANT		
2	(301) Organization		
3	(302) Franchises and Consents	5,959,890	
4	(303) Miscellaneous Intangible Plant	24,304,509	3,046,506
5	TOTAL Intangible Plant (Enter Total of lines 2, 3, and 4)	30,264,399	3,046,506
6	2. PRODUCTION PLANT		
7	A. Steam Production Plant		
8	(310) Land and Land Rights	143,334	
9	(311) Structures and Improvements		
10	(312) Boiler Plant Equipment		
11	(313) Engines and Engine-Driven Generators		
12	(314) Turbogenerator Units		
13	(315) Accessory Electric Equipment		
14	(316) Misc. Power Plant Equipment		
15	(317) Asset Retirement Costs for Steam Production		
16	TOTAL Steam Production Plant (Enter Total of lines 8 thru 15)	143,334	
17	B. Nuclear Production Plant		
18	(320) Land and Land Rights		
19	(321) Structures and Improvements		
20	(322) Reactor Plant Equipment		
21	(323) Turbogenerator Units		
22	(324) Accessory Electric Equipment		
23	(325) Misc. Power Plant Equipment		
24	(326) Asset Retirement Costs for Nuclear Production		
25	TOTAL Nuclear Production Plant (Enter Total of lines 18 thru 24)		
26	C. Hydraulic Production Plant		
27	(330) Land and Land Rights	630,727	
28	(331) Structures and Improvements	2,095,462	16,241
29	(332) Reservoirs, Dams, and Waterways	78,730,437	504,429
30	(333) Water Wheels, Turbines, and Generators	624,791	360,044
31	(334) Accessory Electric Equipment	5,028,954	981,187
32	(335) Misc. Power PLant Equipment	782,229	58,381
33	(336) Roads, Railroads, and Bridges	900,562	
34	(337) Asset Retirement Costs for Hydraulic Production		
35	TOTAL Hydraulic Production Plant (Enter Total of lines 27 thru 34)	88,793,162	1,920,282
36	D. Other Production Plant		
37	(340) Land and Land Rights	63,016	
38	(341) Structures and Improvements	205,147	
39	(342) Fuel Holders, Products, and Accessories	1,351,574	
40	(343) Prime Movers	2,487,784	496,456
41	(344) Generators	1,056,338	
42	(345) Accessory Electric Equipment	753,936	22,402
43	(346) Misc. Power Plant Equipment	28,291	87,232
44	(347) Asset Retirement Costs for Other Production		
45	TOTAL Other Prod. Plant (Enter Total of lines 37 thru 44)	5,946,086	606,090
46	TOTAL Prod. Plant (Enter Total of lines 16, 25, 35, and 45)	94,882,582	2,526,372

MPSC Case No. U-20995  
Exhibit A-2 (JRN-2)

Name of Respondent Upper Peninsula Power Company		This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission		Date of Report (Mo, Da, Yr) 05/01/2020	Year/Period of Report End of 2019/Q4
ELECTRIC PLANT IN SERVICE (Account 101, 102, 103 and 106) (Continued)					
Line No.	Account (a)	Balance Beginning of Year (b)	Additions (c)		
47	3. TRANSMISSION PLANT				
48	(350) Land and Land Rights				
49	(352) Structures and Improvements				
50	(353) Station Equipment				
51	(354) Towers and Fixtures				
52	(355) Poles and Fixtures				
53	(356) Overhead Conductors and Devices				
54	(357) Underground Conduit				
55	(358) Underground Conductors and Devices				
56	(359) Roads and Trails				
57	(359.1) Asset Retirement Costs for Transmission Plant				
58	TOTAL Transmission Plant (Enter Total of lines 48 thru 57)				
59	4. DISTRIBUTION PLANT				
60	(360) Land and Land Rights	745,813			
61	(361) Structures and Improvements	1,204,150	229,644		
62	(362) Station Equipment	35,223,809	1,759,582		
63	(363) Storage Battery Equipment				
64	(364) Poles, Towers, and Fixtures	38,443,700	1,938,564		
65	(365) Overhead Conductors and Devices	19,918,240	629,174		
66	(366) Underground Conduit				
67	(367) Underground Conductors and Devices	28,494,520	2,876,991		
68	(368) Line Transformers	31,156,767	409,062		
69	(369) Services	16,828,509	663,329		
70	(370) Meters	4,547,880	4,531,454		
71	(371) Installations on Customer Premises	392,589	75,046		
72	(372) Leased Property on Customer Premises				
73	(373) Street Lighting and Signal Systems	1,978,219	711,527		
74	(374) Asset Retirement Costs for Distribution Plant	-49,058			
75	TOTAL Distribution Plant (Enter Total of lines 60 thru 74)	178,885,138	13,824,373		
76	5. REGIONAL TRANSMISSION AND MARKET OPERATION PLANT				
77	(380) Land and Land Rights				
78	(381) Structures and Improvements				
79	(382) Computer Hardware				
80	(383) Computer Software				
81	(384) Communication Equipment				
82	(385) Miscellaneous Regional Transmission and Market Operation Plant				
83	(386) Asset Retirement Costs for Regional Transmission and Market Oper				
84	TOTAL Transmission and Market Operation Plant (Total lines 77 thru 83)				
85	6. GENERAL PLANT				
86	(389) Land and Land Rights	591,264	25,000		
87	(390) Structures and Improvements	8,026,206	3,588,497		
88	(391) Office Furniture and Equipment	2,174,459	2,005,072		
89	(392) Transportation Equipment	11,286,178	1,149,876		
90	(393) Stores Equipment	108,683	2,109		
91	(394) Tools, Shop and Garage Equipment	2,387,474	581,324		
92	(395) Laboratory Equipment	2,091,057			
93	(396) Power Operated Equipment	1,925,302	133,345		
94	(397) Communication Equipment	4,659,470	12,369		
95	(398) Miscellaneous Equipment	22,436			
96	SUBTOTAL (Enter Total of lines 86 thru 95)	33,272,529	7,497,592		
97	(399) Other Tangible Property				
98	(399.1) Asset Retirement Costs for General Plant	154,292			
99	TOTAL General Plant (Enter Total of lines 96, 97 and 98)	33,426,821	7,497,592		
100	TOTAL (Accounts 101 and 106)	337,458,940	26,894,843		
101	(102) Electric Plant Purchased (See Instr. 8)				
102	(Less) (102) Electric Plant Sold (See Instr. 8)				
103	(103) Experimental Plant Unclassified				
104	TOTAL Electric Plant in Service (Enter Total of lines 100 thru 103)	337,458,940	26,894,843		



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ELECTRIC PLANT IN SERVICE (Account 101, 102, 103 and 106) (Continued)							
Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)		Line No.		
					47		
					48		
					49		
					50		
					51		
					52		
					53		
					54		
					55		
					56		
					57		
					58		
					59		
			745,813		60		
2,718			1,431,076		61		
1,043,809			35,939,582		62		
					63		
494,849			39,887,415		64		
11,388			20,536,026		65		
					66		
33,906			31,337,605		67		
		5,174	31,571,003		68		
36,254			17,455,584		69		
639,094		-5,174	8,435,066		70		
66,212			401,423		71		
					72		
5,718			2,684,028		73		
			-49,058		74		
2,333,948			190,375,563		75		
					76		
					77		
					78		
					79		
					80		
					81		
					82		
					83		
					84		
					85		
			616,264		86		
			11,614,703		87		
796,857			3,382,674		88		
745,924			11,690,130		89		
62,076			48,716		90		
824,289			2,144,509		91		
517,809			1,573,248		92		
104,120			1,954,527		93		
588,343			4,083,496		94		
			22,436		95		
3,639,418			37,130,703		96		
					97		
			154,292		98		
3,639,418			37,284,995		99		
6,130,916			358,222,867		100		
					101		
					102		
					103		
6,130,916			358,222,867		104		

**STEAM-ELECTRIC GENERATING PLANT STATISTICS (Large Plants)**

1. Report data for plant in Service only. 2. Large plants are steam plants with installed capacity (name plate rating) of 25,000 Kw or more. Report in this page gas-turbine and internal combustion plants of 10,000 Kw or more, and nuclear plants. 3. Indicate by a footnote any plant leased or operated as a joint facility. 4. If net peak demand for 60 minutes is not available, give data which is available, specifying period. 5. If any employees attend more than one plant, report on line 11 the approximate average number of employees assignable to each plant. 6. If gas is used and purchased on a therm basis report the Btu content or the gas and the quantity of fuel burned converted to Mct. 7. Quantities of fuel burned (Line 38) and average cost per unit of fuel burned (Line 41) must be consistent with charges to expense accounts 501 and 547 (Line 42) as show on Line 20. 8. If more than one fuel is burned in a plant furnish only the composite heat rate for all fuels burned.

Line No.	Item  (a)	Plant Name: <i>Portage</i>  (b)	Plant Name: <i>Gladstone</i>  (c)
1	Kind of Plant (Internal Comb, Gas Turb, Nuclear	Gas Turbine	Gas Turbine
2	Type of Constr (Conventional, Outdoor, Boiler, etc)	Conventional	Conventional
3	Year Originally Constructed	1973	1975
4	Year Last Unit was Installed	1975	1987
5	Total Installed Cap (Max Gen Name Plate Ratings-MW)	22.60	22.60
6	Net Peak Demand on Plant - MW (60 minutes)	0	0
7	Plant Hours Connected to Load	0	0
8	Net Continuous Plant Capability (Megawatts)	0	0
9	When Not Limited by Condenser Water	0	0
10	When Limited by Condenser Water	0	0
11	Average Number of Employees	0	1
12	Net Generation, Exclusive of Plant Use - KWh	0	79562
13	Cost of Plant: Land and Land Rights	7353	55663
14	Structures and Improvements	94936	110212
15	Equipment Costs	3515914	2768100
16	Asset Retirement Costs	0	0
17	Total Cost	3618203	2933975
18	Cost per KW of Installed Capacity (line 17/5) Including	160.0975	129.8219
19	Production Expenses: Oper, Supv, & Engr	0	354
20	Fuel	302390	32278
21	Coolants and Water (Nuclear Plants Only)	0	0
22	Steam Expenses	0	0
23	Steam From Other Sources	0	0
24	Steam Transferred (Cr)	0	0
25	Electric Expenses	8174	-100
26	Misc Steam (or Nuclear) Power Expenses	0	0
27	Rents	0	0
28	Allowances	0	0
29	Maintenance Supervision and Engineering	0	0
30	Maintenance of Structures	0	18975
31	Maintenance of Boiler (or reactor) Plant	0	0
32	Maintenance of Electric Plant	312	0
33	Maintenance of Misc Steam (or Nuclear) Plant	-27223	18680
34	Total Production Expenses	283653	70187
35	Expenses per Net KWh	0.0000	0.8822
36	Fuel: Kind (Coal, Gas, Oil, or Nuclear)		
37	Unit (Coal-tons/Oil-barrel/Gas-mcf/Nuclear-indicate)		
38	Quantity (Units) of Fuel Burned	000000	000000
39	Avg Heat Cont - Fuel Burned (btu/indicate if nuclear)	000000	000000
40	Avg Cost of Fuel/unit, as Delvd f.o.b. during year	0.0000.0000.0000.0000.0000.0000	0.0000.0000.0000.0000.0000.0000
41	Average Cost of Fuel per Unit Burned	0.0000.0000.0000.0000.0000.0000	0.0000.0000.0000.0000.0000.0000
42	Average Cost of Fuel Burned per Million BTU	0.0000.0000.0000.0000.0000.0000	0.0000.0000.0000.0000.0000.0000
43	Average Cost of Fuel Burned per KWh Net Gen	0.0000.0000.0000.0000.0000.0000	0.0000.0000.0000.0000.0000.0000
44	Average BTU per KWh Net Generation	0.0000.0000.0000.0000.0000.0000	0.0000.0000.0000.0000.0000.0000
			MPSC Case No. U-20995 Exhibit A-2 (JRN-2)



Name of Respondent Upper Peninsula Power Company		This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission		Date of Report (Mo, Da, Yr) 05/01/2020		Year/Period of Report End of 2019/Q4	
HYDROELECTRIC GENERATING PLANT STATISTICS (Large Plants)							
1. Large plants are hydro plants of 10,000 Kw or more of installed capacity (name plate ratings) 2. If any plant is leased, operated under a license from the Federal Energy Regulatory Commission, or operated as a joint facility, indicate such facts in a footnote. If licensed project, give project number. 3. If net peak demand for 60 minutes is not available, give that which is available specifying period. 4. If a group of employees attends more than one generating plant, report on line 11 the approximate average number of employees assignable to each plant.							
Line No.	Item (a)	FERC Licensed Project No. 0 Plant Name: Victoria (b)		FERC Licensed Project No. 0 Plant Name: (c)			
1	Kind of Plant (Run-of-River or Storage)	Storage					
2	Plant Construction type (Conventional or Outdoor)	Conventional					
3	Year Originally Constructed	1930					
4	Year Last Unit was Installed	1930					
5	Total installed cap (Gen name plate Rating in MW)	12.00		0.00			
6	Net Peak Demand on Plant-Megawatts (60 minutes)	0		0			
7	Plant Hours Connect to Load	0		0			
8	Net Plant Capability (in megawatts)						
9	(a) Under Most Favorable Oper Conditions	13		0			
10	(b) Under the Most Adverse Oper Conditions	6		0			
11	Average Number of Employees	4		0			
12	Net Generation, Exclusive of Plant Use - Kwh	62,487,533		0			
13	Cost of Plant						
14	Land and Land Rights	514,903		0			
15	Structures and Improvements	780,310		0			
16	Reservoirs, Dams, and Waterways	35,139,505		0			
17	Equipment Costs	3,227,837		0			
18	Roads, Railroads, and Bridges	786,844		0			
19	Asset Retirement Costs	0		0			
20	TOTAL cost (Total of 14 thru 19)	40,449,399		0			
21	Cost per KW of Installed Capacity (line 20 / 5)	3,370.7833		0.0000			
22	Production Expenses						
23	Operation Supervision and Engineering	224,279		0			
24	Water for Power	0		0			
25	Hydraulic Expenses	650		0			
26	Electric Expenses	116,100		0			
27	Misc Hydraulic Power Generation Expenses	0		0			
28	Rents	0		0			
29	Maintenance Supervision and Engineering	0		0			
30	Maintenance of Structures	0		0			
31	Maintenance of Reservoirs, Dams, and Waterways	0		0			
32	Maintenance of Electric Plant	169,533		0			
33	Maintenance of Misc Hydraulic Plant	0		0			
34	Total Production Expenses (total 23 thru 33)	510,562		0			
35	Expenses per net KWh	0.0082		0.0000			

GENERATING PLANT STATISTICS (Small Plants)

1. Small generating plants are steam plants of, less than 25,000 Kw; internal combustion and gas turbine-plants, conventional hydro plants and pumped storage plants of less than 10,000 Kw installed capacity (name plate rating). 2. Designate any plant leased from others, operated under a license from the Federal Energy Regulatory Commission, or operated as a joint facility, and give a concise statement of the facts in a footnote. If licensed project, give project number in footnote.

Line No.	Name of Plant (a)	Year Orig. Const. (b)	Installed Capacity Name Plate Rating (In MW) (c)	Net Peak Demand MW (60 min.) (d)	Net Generation Excluding Plant Use (e)	Cost of Plant (f)
1	Prickett	1931	2.20		8,484,647	7,584,455
2	Hoist*	1925	4.40		16,509,016	19,617,166
3	McClure	1919	8.00		44,896,389	22,904,873
4						
5						
6						
7						
8						
9	*Includes Silver Lake					
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**GENERATING PLANT STATISTICS (Small Plants) (Continued)**

3. List plants appropriately under subheadings for steam, hydro, nuclear, internal combustion and gas turbine plants. For nuclear, see instruction 11, Page 403. 4. If net peak demand for 60 minutes is not available, give the which is available, specifying period. 5. If any plant is equipped with combinations of steam, hydro internal combustion or gas turbine equipment, report each as a separate plant. However, if the exhaust heat from the gas turbine is utilized in a steam turbine regenerative feed water cycle, or for preheated combustion air in a boiler, report as one plant.

Plant Cost (Incl Asset Retire. Costs) Per MW (g)	Operation Exc'l. Fuel (h)	Production Expenses		Kind of Fuel (k)	Fuel Costs (in cents (per Million Btu) (l)	Line No.
		Fuel (i)	Maintenance (j)			
3,447,480			91,615			1
4,458,447			251,890			2
2,863,109			214,637			3
						4
						5
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					MPSC Case No. U-20995 Exhibit A-2 (JRN-2)	46

**SUBSTATIONS**

1. Report below the information called for concerning substations of the respondent as of the end of the year.
2. Substations which serve only one industrial or street railway customer should not be listed below.
3. Substations with capacities of Less than 10 MVA except those serving customers with energy for resale, may be grouped according to functional character, but the number of such substations must be shown.
4. Indicate in column (b) the functional character of each substation, designating whether transmission or distribution and whether attended or unattended. At the end of the page, summarize according to function the capacities reported for the individual stations in column (f).

Line No.	Name and Location of Substation (a)	Character of Substation (b)	VOLTAGE (In MVA)		
			Primary (c)	Secondary (d)	Tertiary (e)
1	Freeman's Sub, Neg Twsp	Distribution	138.00	34.00	
2	Atlantic Sub, Atlantic Mine	Distribution	69.00	12.50	
3	Masonville, Mason Twsp*	Distribution	69.00	34.00	
4	McClure Plt, Ishp	Distribution	2.40	34.00	
5	Barnum Sub, Ishp	Distribution	138.00	12.50	
6	Barnum Sub, Ishp	Distribution	69.00	12.50	
7	Barnum Sub, Ishp	Distribution	138.00	34.00	
8	Delta Sub, Wells Twsp	Distribution	69.00	12.50	
9	Elevation St, Hancock*	Distribution	69.00	12.50	
10	KI Sawyer AFB	Distribution	69.00	12.50	
11	Henry Street Sub, Hurontown*	Distribution	69.00	12.50	
12	Lake Mine, Greenland Twsp*	Distribution	69.00	7.20	
13	L'Anse Dist, L'Anse*	Distribution	69.00	12.50	
14	Lincoln Ave Sub, Iron River	Distribution	69.00	12.50	
15	M-38 Sub, Baraga Twsp*	Distribution	69.00	12.50	
16	Negaunee City, Neg *	Distribution	34.00	4.16	
17	Ontonagon Sub, Ont*	Distribution	69.00	12.50	
18	Munising Sub., City of Munising	Distribution	69.00	12.50	
19	Victoria, Rockland Twsp	Distribution	69.00	12.50	
20	Osceola Sub, Laurium *	Distribution	69.00	12.50	
21	MTU, Houghton	Distribution	69.00	12.50	
22	Winona	Distribution	69.00	12.50	
23	13 Subs Under 10,000 KVA	Distribution			
24	Total		1623.40	347.36	
25					
26					
27	* Substations serving customers with				
28	energy for resale.				
29					
30					
31					
32					
33					
34					
35					
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37					
38					
39					
40					

SUBSTATIONS (Continued)

5. Show in columns (l), (j), and (k) special equipment such as rotary converters, rectifiers, condensers, etc. and auxiliary equipment for increasing capacity.

6. Designate substations or major items of equipment leased from others, jointly owned with others, or operated otherwise than by reason of sole ownership by the respondent. For any substation or equipment operated under lease, give name of lessor, date and period of lease, and annual rent. For any substation or equipment operated other than by reason of sole ownership or lease, give name of co-owner or other party, explain basis of sharing expenses or other accounting between the parties, and state amounts and accounts affected in respondent's books of account. Specify in each case whether lessor, co-owner, or other party is an associated company.

Capacity of Substation (In Service) (In MVA) (f)	Number of Transformers In Service (g)	Number of Spare Transformers (h)	CONVERSION APPARATUS AND SPECIAL EQUIPMENT			Line No.
			Type of Equipment (i)	Number of Units (j)	Total Capacity (In MVA) (k)	
25	1					1
37	1					2
20	2					3
10	2					4
22	1					5
12	1					6
22	1					7
28	2					8
28	2					9
15	2					10
15	1					11
1	1					12
35	3	1				13
32	2					14
7	1	1				15
8	1					16
7	1					17
41	4					18
31	3	1				19
45	2					20
25	2					21
4	1					22
90	15	7				23
560	52	10				24
						25
						26
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Name of Respondent	This Report is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 05/01/2020	Year/Period of Report 2019/Q4
Upper Peninsula Power Company			
FOOTNOTE DATA			

**Schedule Page: 426 Line No.: 23 Column: a**

Excludes energy for resale.

MPSC Case No. U-20995

Exhibit A-3 (JRN-3)

Name of Respondent Upper Peninsula Power Company		This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 6/1/2020	Year of Report 12/31/19
<b>ACCUMULATED DEFERRED INCOME TAXES (Account 190)</b>				
1. Report the information called for below concerning the respondent's accounting for deferred income taxes.		2. At Other (Specify), include deferrals relating to other income and deductions.		
Line No.	Account Subdivision (a)	Balance at Beginning of Year (b)	Changes During Year	
			Amounts Debited to Account 410.1 (c)	Amounts Credited to Account 411.1 (d)
1	Electric			
2	Plant	1,419,100	(24,230)	64,023
3	Other Than Plant	25,792,081	(3,886,960)	3,201,784
4	Plant (FAS 109)	1,648,343		654
5				
6				
7	Other			
8	TOTAL (Account 190) (Enter total of lines 2 thru 7)	28,859,524	(3,911,190)	3,266,461
9	Gas			
10				
11				
12				
13				
14				
15	Other			
16	TOTAL Gas (Enter total of lines 10 thru 15)			
17	Other (Specify) NonUtility	23,912,164	(1,829,571)	1,608,733
18	TOTAL (Account 190) (Enter total of lines 8, 16 & 17)	52,771,688	(5,740,761)	4,875,194
19	Classification of Total:			
20	Federal Income Tax	43,312,495	(4,516,059)	3,794,875
21	State Income Tax	9,459,192	(1,224,703)	1,080,310
22	Local Income Tax			
<p style="text-align: center;"><b>NOTES</b></p> <p style="text-align: center;"><i>In the space provided below, identify by amount and classification, significant items for which deferred taxes are being provided. Indicate insignificant amounts listed under Other.</i></p>				



Name of Respondent Upper Peninsula Power Company		This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission		Date of Report (Mo, Da, Yr) 6/1/2020		Year of Report 12/31/19	
<b>ACCUMULATED DEFERRED INCOME TAXES (Account 190) (Continued)</b>							
3. If more space is needed, use separate pages as required.				and classification, significant items for which deferred taxes are being provided. Indicate insignificant amounts listed Other .			
4. In the space provided below, identify by amount							
Changes During Year		ADJUSTMENTS				Balance at End of Year (k)	Line No.
Amounts Debited to Account 410.2 (e)	Amounts Credited to Account 411.2 (f)	DEBITS		CREDITS			
		Acct. No. (g)	Amount (h)	Acct. No. (i)	Amount (j)		
			(10)			1,458,883	2
						25,106,905	3
						1,648,997	4
						0	5
						0	6
						0	7
			(10)			28,214,785	8
							9
							10
							11
							12
							13
							14
							15
							16
						23,691,326	17
			(10)			51,906,111	18
							19
						42,591,311	20
						9,314,799	21
							22
NOTES (Continued)							

Name of Respondent Upper Peninsula Power Company	This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 05/01/2020	Year/Period of Report End of 2019/Q4
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**TAXES ACCRUED, PREPAID AND CHARGED DURING YEAR**

1. Give particulars (details) of the combined prepaid and accrued tax accounts and show the total taxes charged to operations and other accounts during the year. Do not include gasoline and other sales taxes which have been charged to the accounts to which the taxed material was charged. If the actual, or estimated amounts of such taxes are know, show the amounts in a footnote and designate whether estimated or actual amounts.
2. Include on this page, taxes paid during the year and charged direct to final accounts, (not charged to prepaid or accrued taxes.) Enter the amounts in both columns (d) and (e). The balancing of this page is not affected by the inclusion of these taxes.
3. Include in column (d) taxes charged during the year, taxes charged to operations and other accounts through (a) accruals credited to taxes accrued, (b) amounts credited to proportions of prepaid taxes chargeable to current year, and (c) taxes paid and charged direct to operations or accounts other than accrued and prepaid tax accounts.
4. List the aggregate of each kind of tax in such manner that the total tax for each State and subdivision can readily be ascertained.

Line No.	Kind of Tax (See instruction 5) (a)	BALANCE AT BEGINNING OF YEAR		Taxes Charged During Year (d)	Taxes Paid During Year (e)	Adjustments (f)
		Taxes Accrued (Account 236) (b)	Prepaid Taxes (Include in Account 165) (c)			
1	Federal Highway Use Tax					
2	FICA	92,259		2,619,375	1,313,882	
3	FUTA	3,886		8,553	8,743	
4	SUTA	8,391		21,670	36,262	
5	Federal Withholding	71,129		2,171,004		
6	State of Michigan TOTIT					
7	Michigan Obligation	6,363		16,515		
8	Unemployment					
9	State of Michigan Withholding	25,044		680,158		
10	State of Wisconsin Withholdi			8,324		
11	Use Tax				647,461	
12	Local MI TOTIT					
13	Real Estate & Personal Prop	2,482,009		6,238,312	6,177,393	
14						
15						
16						
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41	TOTAL	2,689,081		11,763,911	8,182,741	

Name of Respondent Upper Peninsula Power Company	This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) 05/01/2020	Year/Period of Report End of 2019/Q4
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**TAXES ACCRUED, PREPAID AND CHARGED DURING YEAR (Continued)**

5. If any tax (exclude Federal and State income taxes)- covers more then one year, show the required information separately for each tax year, identifying the year in column (a).

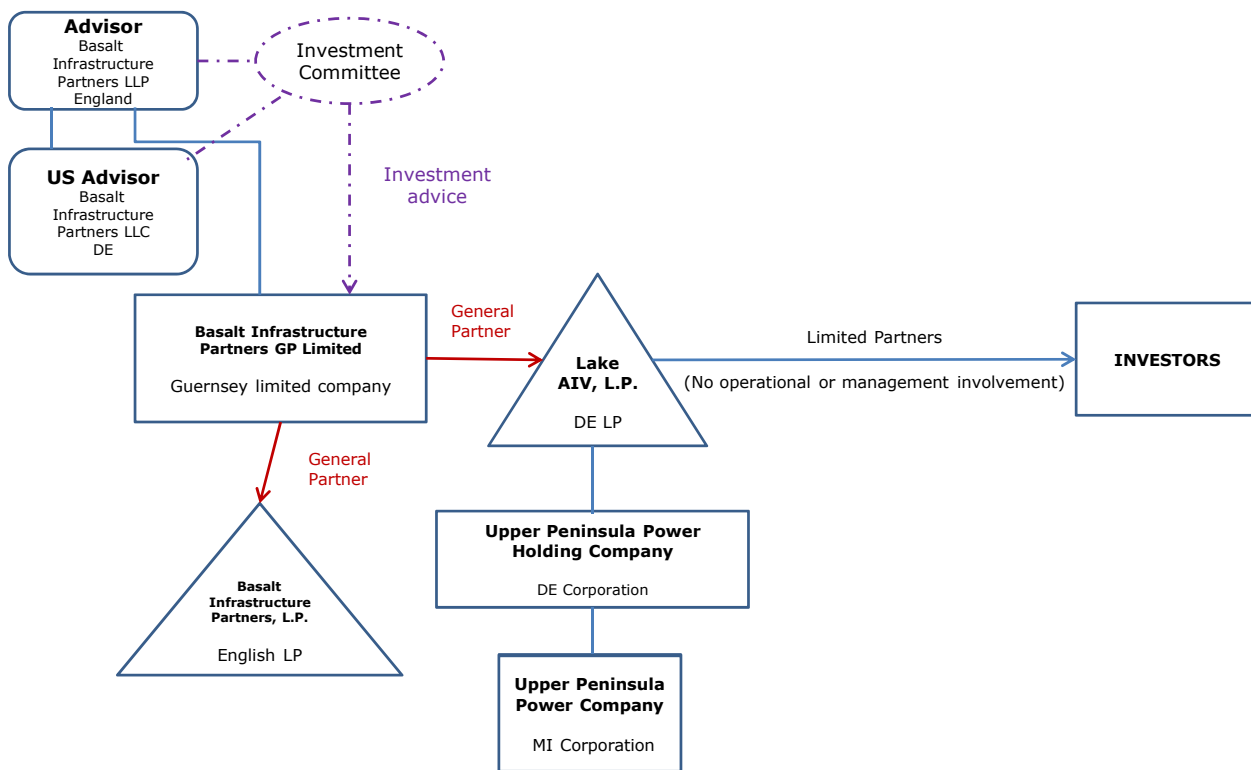
6. Enter all adjustments of the accrued and prepaid tax accounts in column (f) and explain each adjustment in a foot- note. Designate debit adjustments by parentheses.

7. Do not include on this page entries with respect to deferred income taxes or taxes collected through payroll deductions or otherwise pending transmittal of such taxes to the taxing authority.

8. Report in columns (i) through (l) how the taxes were distributed. Report in column (i) only the amounts charged to Accounts 408.1 and 409.1 pertaining to electric operations. Report in column (l) the amounts charged to Accounts 408.1 and 109.1 pertaining to other utility departments and amounts charged to Accounts 408.2 and 409.2. Also shown in column (l) the taxes charged to utility plant or other balance sheet accounts.

9. For any tax apportioned to more than one utility department or account, state in a footnote the basis (necessity) of apportioning such tax.

BALANCE AT END OF YEAR		DISTRIBUTION OF TAXES CHARGED				Line No.
(Taxes accrued Account 236) (g)	Prepaid Taxes (Incl. in Account 165) (h)	Electric (Account 408.1, 409.1) (i)	Extraordinary Items (Account 409.3) (j)	Adjustments to Ret. Earnings (Account 439) (k)	Other (l)	
						1
18,132		773,089				2
693		3,790				3
1,482		16,429				4
13,233						5
						6
1,124						7
						8
4,370						9
58						10
						11
						12
1,931,566		6,177,393				13
						14
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						39
						40
1,970,658		6,970,701				41



## **STOCK PURCHASE AGREEMENT**

between

LAKE AIV, LP

as Seller,

and

Axium UP Holdings LLC

as Buyer

Dated as of January 22, 2021

THIS DOCUMENT IS INTENDED SOLELY TO FACILITATE DISCUSSIONS AMONG THE PARTIES IDENTIFIED HEREIN. IT IS NOT INTENDED TO CREATE, AND IT WILL NOT BE DEEMED TO CREATE, A LEGALLY BINDING OR ENFORCEABLE OFFER OR AGREEMENT OF ANY TYPE OR NATURE PRIOR TO THE ACTUAL EXECUTION OF THIS DOCUMENT BY ALL SUCH PARTIES AND THE DELIVERY OF AN EXECUTED COPY OF THIS DOCUMENT BY ALL SUCH PARTIES TO ALL OTHER PARTIES.

THIS DOCUMENT SHALL BE KEPT CONFIDENTIAL PURSUANT TO THE TERMS OF THE CONFIDENTIALITY AGREEMENT ENTERED INTO BY THE RECIPIENT HEREOF WITH RESPECT TO THE SUBJECT MATTER HEREOF.

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Buyer Disclosure Schedule

## STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement is entered into as of January 22, 2021 (the “Effective Date”), by and between Lake AIV, LP, a Delaware limited partnership (“Seller”), and Axiom UP Holdings LLC, a Delaware limited liability company (“Buyer”). Each of Seller and Buyer is, individually, a “Party,” and, collectively, the “Parties.”

### WITNESSETH:

WHEREAS, Seller owns all of the issued and outstanding common stock, \$1.00 par value (the “Company Stock”), of Upper Peninsula Power Holding Company, a Delaware corporation (the “Company”);

WHEREAS, the Company owns all of the issued and outstanding no par value common stock (the “UPPCO Stock”) of Upper Peninsula Power Company, a Michigan corporation (“UPPCO”);

WHEREAS, Seller desires to sell, assign, convey, transfer and deliver to Buyer, and Buyer desires to purchase from Seller, all of the Company Stock, on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and promises herein made, and in consideration of the representations and warranties herein contained, and for other good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties, intending to become legally bound, hereby agree as follows:

## ARTICLE I

### DEFINITIONS

Section 1.1 Certain Definitions. As used in this Agreement, the following terms shall have the following meanings:

“Accounting Principles” has the meaning set forth in Exhibit A.

“Action” means any action, suit or proceeding by or before any court or other Governmental Authority.

“Additional Consents” has the meaning set forth in Section 3.2.

“Adjustment Escrow Account” means the Escrow Agent account in which the Adjustment Escrow Amount is held pursuant to the terms of the Escrow Agreement.

“Affiliate” means, with respect to any Person, any other Person that, directly or indirectly, through one or more intermediaries, Controls, or is Controlled by, or is under common Control with, such Person.

“Affiliate Contract” means any Contract, other than the Governing Documents of the Company Entities, between (a) any Company Entity or any of their respective directors, managers, officers or employees, or any members of their respective immediate families, on one hand, and (b) Seller or any of its Affiliates (other than any Company Entity) or any of their respective directors, managers, officers or employees, or any members of their respective immediate families, on the other hand.

“Agreement” means this Stock Purchase Agreement, including all exhibits and schedules hereto (including the Seller Disclosure Schedule and the Buyer Disclosure Schedule), as the same may be amended, modified or supplemented from time to time in accordance with its terms.

“Alternative Financing” has the meaning set forth in Section 6.18(c).

“Alternative Financing Debt Commitment” has the meaning set forth in Section 6.18(c).

“Anti-Corruption Laws” means all Laws of the United States, the United Nations, the United Kingdom, the European Union or any other Governmental Authority from time to time concerning or relating to bribery, money laundering, or corruption, including the United Kingdom Bribery Act 2010 and the United States Foreign Corrupt Practices Act of 1977.

“ARO” has the meaning set forth in Exhibit A.

“Assets” of any Person means all assets and properties of every kind, nature, character and description (whether real, personal or mixed, whether tangible or intangible and wherever situated), including the related goodwill, which assets and properties are operated, owned or leased by such Person or, in the case of the Company Entities, otherwise used by such Company Entity in the operation of the Business.

“Balance Sheet Date” has the meaning set forth in Section 3.5(a).

“Business” means the business and operations of the Company Entities as currently conducted.

“Business Day” means any day other than Saturday, Sunday or any other day on which banking institutions in New York are not open for the transaction of normal banking business.

“Buyer” has the meaning set forth in the introductory clause to this Agreement.

“Buyer Confidential Information” has the meaning set forth in Section 6.10.

“Buyer Disclosure Schedule” means the disclosure schedule delivered by Seller to Buyer on the Effective Date and attached hereto.

“Buyer Guaranty” has the meaning set forth in Section 5.5(c).

“Buyer Indemnatee” has the meaning set forth in Section 8.4.

“Capital Expenditures” means the aggregate amount of any capital expenditures (including external and internal costs) that are (a)(i) incurred by UPPCO, as determined by applying on a consistent

basis the respective historical accounting principles, policies, practices and methods within the Financial Statements (as may be adjusted, if necessary, to account for a Closing that occurs on any date other than the last day of a calendar month) with which UPPCO has capitalized expenditures and (ii) actually paid by UPPCO, in each case, on or after January 1, 2021, but prior to the Closing, and (b) at the time such capital expenditures are incurred, reasonably expected by UPPCO to be recoverable in UPPCO's regulated rate base; *provided*, that Capital Expenditures shall exclude capital expenditures with respect to the hydroelectric generation facilities owned by UPPCO that are not included in UPPCO's regulated rate base.

"Claims" means any action, suit, litigation, hearing, arbitration, claim, audit, investigation or similar proceeding.

"Closing" has the meaning set forth in Section 2.4.

"Closing Balance Sheet" has the meaning set forth in Section 2.3(b).

"Closing Cash" means the amount of cash, cash equivalents and marketable securities of the Company Entities, excluding any restricted cash. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Company Entities.

"Closing Consideration" shall mean (a) the Base Purchase Price, *plus* (b) the amount of the Estimated Closing Cash, *plus* (c) the amount, if any, by which the Estimated Closing Date Net Working Capital exceeds the Target Net Working Capital, *minus* (d) the amount, if any, by which the Estimated Closing Date Net Working Capital is less than the Target Net Working Capital, *minus* (e) the Estimated Closing Indebtedness, *plus* (f) the amount, if any, by which the Estimated Capital Expenditures exceeds the Forecasted Capital Expenditures, *minus* (g) the amount by which Estimated Capital Expenditures is less than the Forecasted Capital Expenditures, *minus* (h) the Estimated Closing PPP Loan Balance, if any, *minus* (i) the Indemnity Escrow Amount *minus* (j) the Adjustment Escrow Amount.

"Closing Date" has the meaning set forth in Section 2.4.

"Closing Indebtedness" means the aggregate amount of Indebtedness of the Company Entities (without duplication), and all accrued and unpaid interest thereon, as of immediately prior to the Closing, but excluding trade accounts payable or other liabilities included in Net Working Capital, intercompany Indebtedness among the Company Entities (including the Intercompany Note), the Closing PPP Loan Balance and the Make-Whole Amount (if any).

"Closing PPP Loan Balance" means an amount equal to all amounts owed under or in connection with the PPP Loan (including all interest, fees, expenses, penalties or fines) as of the Reference Time.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreement" means any collective bargaining agreement or similar labor agreement with respect to any Employee.

"Company" has the meaning set forth in the recitals to this Agreement.

"Company Confidential Information" has the meaning set forth in Section 6.10.

"Company Entities" means the Company and UPPCO.

“Company Revolving Credit Agreement” means the Revolving Credit Agreement dated as of August 28, 2014, as amended on May 5, 2015, August 17, 2017, December 20, 2019, and April 16, 2020, by and among the Company as borrower, the lenders party thereto, the Bank of Nova Scotia as administrative agent and issuing bank, the Bank of Nova Scotia as collateral agent, and the Bank of Nova Scotia and RBC Capital Markets as joint lead arrangers and joint bookrunners.

“Company Stock” has the meaning set forth in the recitals to this Agreement.

“Company Systems” means, with respect to a Company Entity, all Information Technology Systems owned, purportedly owned, licensed, subscribed to, leased, controlled, used or held for use by such Company Entity.

“Competing Transaction” has the meaning set forth in Section 6.17.

“Condemnation” means any taking or seizure of any Assets (including Owned Real Property, Leased Real Property and Easement Property) by any Governmental Authority by eminent domain or as otherwise provided by applicable Law.

“Confidential Information” has the meaning set forth in Section 6.2.

“Confidentiality Agreement” means the Confidentiality and Non-Disclosure Agreement dated as of September 23, 2020, by and between Seller and AxInfra US LP.

“Consents” means consents, approvals, exemptions, waivers, authorizations, filings, registrations and notifications.

“Contract” means any written or oral agreement, contract, subcontract, lease, license, sublicense or other legally binding commitment or undertaking.

“Control” means, with respect to any Person, the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or ownership interests, by contract or otherwise.

“Costs” has the meaning set forth in Section 6.4(b).

“COVID-19” means SARS-CoV-2 or COVID-19, and any evolutions or mutations thereof or related or associated epidemics, pandemics, public health emergencies or disease outbreaks.

“COVID-19 Measure” means any quarantine, “shelter in place”, “stay at home”, workforce reduction, social distancing, shut down, closure, sequester, safety or similar Law, Governmental Order, guideline or recommendation promulgated by any Governmental Authority, including the Centers for Disease Control and Prevention and the World Health Organization, in each case, in connection with or in response to COVID-19, including the Coronavirus Aid, Relief and Economic Security (CARES) Act, the Families First Coronavirus Response Act and the Coronavirus Response and Relief Supplemental Appropriations Act of 2021.

“Debt Agreements” means the Note Purchase Agreement, the Company Revolving Credit Agreement, the UPPCO Revolving Credit Agreement and the Intercompany Note.

“Debt Commitment” has the meaning set forth in Section 5.5(d).

“Debt Financing” has the meaning set forth in Section 5.5(d).

“Deductible” has the meaning set forth in Section 8.4.

“De Minimis Claim Amount” has the meaning set forth in Section 8.4.

“Direct Claim Notice” has the meaning set forth in Section 8.5.

“Direct Claims” has the meaning set forth in Section 8.5.

“Draft R&W Insurance Policy” means the draft form of the R&W Insurance Policy attached hereto as Exhibit B.

“EAR” means the Export Administration Regulations (15 C.F.R. Parts 730-744).

“Easement Agreements” means all Easement agreements (including all amendments, extension, renewals and other material written agreements related thereto) for the Easement Property.

“Easements” shall mean all easements, license agreements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

“Easement Property” has the meaning set forth in Section 3.8(c).

“Effective Date” has the meaning set forth in the introductory clause to this Agreement.

“Employee” means each employee of UPPCO as of the Effective Date and each new employee who is hired to work at UPPCO following the Effective Date and prior to the Closing in accordance this with Agreement and, in each case, who remains employed by UPPCO immediately prior to the Closing.

“Employee Benefit Plan” means each (a) “employee benefit plan” (as such term is defined in Section 3(3) of ERISA); (b) bonus, stock option, stock purchase, restricted stock, incentive, fringe benefit, VEBA, profit-sharing, pension or retirement, deferred compensation, medical, life insurance, disability, accident, salary continuation, severance, accrued leave, vacation, sick pay, sick leave, supplemental retirement and unemployment benefit plan, program, arrangements, commitments and/or practice; and (c) employment, consulting, termination, and severance contract or agreements, whether or not any such plans, programs, arrangements, commitments, contracts, agreements and/or practices (referred to in (a), (b) or (c) above) are in writing or are exempt from the provisions of ERISA, that have been established, maintained or contributed to (or with respect to which an obligation to contribute has been undertaken) by, or with respect to which any liability is borne by, any Company Entity, other than a Multiemployer Plan.

“Environmental Law” means any Law, consent decree or judgment pertaining to the protection of human health as it relates to exposure to Hazardous Substances, conservation or protection of the environment or natural resources, or to Hazardous Substances, including the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. § 11001 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §

5101 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 2701 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.; the Endangered Species Act, 16 U.S.C. § 1531 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.; the National Environmental Policy Act, 42 U.S.C. § 4321 et seq.; the Bald and Golden Eagle Protection Act, 16 U.S.C. § 668 et seq. and the Occupational Safety and Health Act 29 U.S.C. § 651 et seq.; all state and local counterparts thereto and any regulations, policies, permits, or approvals promulgated or issued thereunder.

“Equity Commitment” has the meaning set forth in Section 5.5(d).

“Equity Financing” has the meaning set forth in Section 5.5(d).

“ERISA” means the United States Employee Retirement Income Security Act of 1974 and the regulations and guidance issued thereunder.

“ERISA Affiliate” means any entity which is a member of a “controlled group of corporations” with or under “common control” as defined in Section 414(b), (c), (m) or (o) of the Code, with any Company Entity.

“Escrow Agent” means Citibank N.A. (or such other banking institution or trust company as the Parties may mutually agree upon).

“Escrow Agreement” means an escrow agreement providing for the establishment and administration of the Adjustment Escrow Account and the Indemnity Escrow Account in accordance with this Agreement, in customary form and substance reasonably acceptable to the Parties, by and among Buyer, Seller and the Escrow Agent.

“Estimated Capital Expenditures” has the meaning set forth in Section 2.3(a).

“Estimated Closing Cash” has the meaning set forth in Section 2.3(a).

“Estimated Closing Date Net Working Capital” has the meaning set forth in Section 2.3(a).

“Estimated Closing Indebtedness” has the meaning set forth in Section 2.3(a).

“Estimated Closing PPP Loan Balance” has the meaning set forth in Section 2.3(a).

“Evaluation Material” has the meaning set forth in Section 4.8.

“Event” has the meaning set forth in the definition of “Material Adverse Effect.”

“Existing Debt Election” means an election made by Buyer, by written notice to Seller prior to the Closing, for the Indebtedness under the Debt Agreements to remain outstanding in connection with the Closing.

“FERC” means the Federal Energy Regulatory Commission.

“FERC 203 Approval” means the approval from FERC for the Transactions that is required under Section 203 of the FPA.

“FERC 204 Approval” means the approval from FERC for UPPCO to incur indebtedness and grant security interests as contemplated by the Debt Financing under Section 204 of the FPA.



“FERC Approvals” means the FERC 203 Approval and the FERC 204 Approval.

“Final Calculation” has the meaning set forth in Section 2.3(b).

“Final Capital Expenditures” has the meaning set forth in Section 2.3(b).

“Final Closing Cash” has the meaning set forth in Section 2.3(b).

“Final Closing Indebtedness” has the meaning set forth in Section 2.3(b).

“Final Closing Net Working Capital” has the meaning set forth in Section 2.3(b).

“Final Closing PPP Loan Balance” has the meaning set forth in Section 2.3(b).

“Final Consideration” means (a) the Base Purchase Price, *plus* (b) the amount of the Final Closing Cash, *plus* (c) the amount, if any, by which the Final Closing Net Working Capital as finally determined pursuant to Section 2.3 exceeds the Target Net Working Capital, *minus* (d) the amount, if any, by which the Final Closing Net Working Capital as finally determined pursuant to Section 2.3 is less than the Target Net Working Capital, *minus* (e) the amount of Final Closing Indebtedness, *plus* (f) the amount, if any, by which the Final Capital Expenditures exceeds the Forecasted Capital Expenditures, *minus* (g) the amount, if any, by which the Final Capital Expenditures is less than the Forecasted Capital Expenditures, *minus* (h) the Closing PPP Loan Balance, if any, *minus* (i) the Indemnity Escrow Amount *minus* (j) the Adjustment Escrow Amount.

“Financial Statements” has the meaning set forth in Section 3.5(a).

“Financing” has the meaning set forth in Section 5.5(d).

“Financing Agreements” has the meaning set forth in Section 6.18(b).

“Financing Commitments” has the meaning set forth in Section 5.5(d).

“Forecasted Capital Expenditures” means the aggregate amount of forecasted capital expenditures for UPPCO, as set forth on Section 1.1-FCE of the Seller Disclosure Schedule, for the period on or after January 1, 2021 through the Closing Date (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days prior to and including the Closing Date divided by the number of days in such month).

“Forgiveness” or “Forgiven” means such portion of the PPP Loan that shall be treated as cancelled debt, subject to the terms and conditions set forth in the PPP Law and the PPP Loan Documents.

“Forgiveness Determination” means the final determination (including after the final resolution of any appeals) by the PPP Lender and the SBA with respect to the amount of Forgiveness of the PPP Loan.

“FPA” means the Federal Power Act, as amended, and FERC’s implementing regulations promulgated thereunder.

“Fraud” means intentional fraud in the making of a representation or warranty contained in ARTICLE III, ARTICLE IV or ARTICLE V and requires that: (a) the party to be charged with such fraud made a false representation of material fact in ARTICLE III, ARTICLE IV or ARTICLE V (including any “bring down” or other confirmation with respect to any such representation or warranty); (b) such party

had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in justifiable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered Losses by reason of such reliance. “Fraud” expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

“GAAP” means generally accepted accounting principles in the United States of America, consistently applied.

“Generation Sites” means all Real Property sites used by a Company Entity on which power generation facilities are located, including appurtenant substations.

“Good Utility Practice” means (a) any of the practices, methods and acts engaged in or approved by a significant portion of the electric distribution or generation industries during the relevant time period or (b) any of the practices, methods or acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition; provided, that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather to be acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act.

“Governing Documents” means, (a) with respect to any corporation, its articles or certificate of incorporation and bylaws, (b) with respect to any limited liability company, its articles or certificate of organization or formation and its operating agreement or limited liability company agreement or documents of similar substance, (c) with respect to any limited partnership, its certificate of limited partnership and partnership agreement or governing or organizational documents of similar substance, and (d) with respect to any other entity, governing or organizational documents of similar substance to any of the foregoing.

“Governmental Approval” means any authorization, consent, approval, license, permit, franchise, tariff, rate, certification, agreement, directive, waiver, exemption, or variance issued by a Governmental Authority.

“Governmental Authority” means any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States or any state, including the State of Michigan, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or nongovernmental body administering, regulating or having general oversight over markets for electric power or bulk electric facilities, and shall include, for avoidance of doubt, Midcontinent Independent System Operator, Inc. and North American Electric Reliability Corporation and its regional reliability entities.

“Governmental Order” means any binding order, writ, judgment, injunction, decree, stipulation, determination or award of any Governmental Authority.

“Guarantors” has the meaning set forth in Section 5.5(c).

“Hazardous Substance” means any pollutant, contaminant, chemical, substance, material or waste, including mixtures thereof, that is regulated by any Governmental Authority under Environmental Laws; any pollutant, contaminant, chemical, material, substance or waste that is defined as a “solid waste,”

“hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “special waste,” “contaminant,” “toxic waste,” or “toxic substance” under any provision of applicable Environmental Law; and shall include per- and polyfluoroalkyl substances (PFAS) and 1,4-dioxane.

“HCERA” has the meaning set forth in Section 3.13(j).

“Healthcare Reform Laws” has the meaning set forth in Section 3.13(j).

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

“Indebtedness” means, with respect to a Person, and without duplication, all obligations of such Person (a) for borrowed money, (b) evidenced by notes, bonds, debentures or similar instruments, (c) for the deferred purchase price of goods or services (other than trade payables or accruals incurred in the ordinary course and not past due), (d) under capital leases (which shall not include legacy operating leases coming on balance sheet in connection with adopting Accounting Standard Codification Topic 842), (e) with respect to reimbursement obligations for letters of credit and other similar instruments that have been drawn, (f) all obligations of such Person in respect of interest rate protection agreements, foreign currency exchange agreements or other interest or exchange rate hedging agreements, (g) accrued but unpaid interest and any other fees and expenses related to the foregoing (but, for avoidance of doubt, excluding the Make-Whole Amount (if any)), related to any of the foregoing obligations, or (h) in the nature of guarantees of the obligations described in clauses (a) through (d) or (f) above of any other Person or as to which such Person has an obligation substantially the economic equivalent of a guaranty, or which are secured by a Lien on the assets of such Person, whether or not such obligation has been assumed by such Person related to any of the foregoing obligations.

“Indemnified Losses” has the meaning set forth in Section 8.4.

“Indemnified Parties” has the meaning set forth in Section 6.4(a).

“Indemnity Escrow Account” means the Escrow Agent account in which the Indemnity Escrow Amount is held pursuant to the terms of the Escrow Agreement.

“Independent Accounting Firm” has the meaning set forth in Section 2.3(d).

“Intellectual Property” means all of the following intellectual property and industrial property rights: (a) all patents and patent applications (including patents issued thereon), and any reissues, continuations, divisionals, continuations-in-part, revisions, extensions and reexaminations thereof; (b) all trademarks, service marks, service names, internet domain names, trade dress and trade names, and all goodwill associated therewith and symbolized thereby; (c) all registered and unregistered copyrights and works of authorship; and (d) all trade secrets, know-how and other confidential and proprietary information.

“Intercompany Note” means the Amended and Restated Intercompany Note between UPPCO and the Company dated September 16, 2014.

“Interim Balance Sheets” has the meaning set forth in Section 3.5(a).

[REDACTED]

“Knowledge” with respect to a matter at issue, means, with respect to Seller, the actual knowledge of the individuals set forth in Section 1.1-KS of the Seller Disclosure Schedule, after reasonable inquiry of the direct reports of such individuals, and, with respect to Buyer, the actual knowledge of the individuals set forth in Section 1.1-KB of the Buyer Disclosure Schedule, after reasonable inquiry of the direct reports of such individuals.

“Laws” means all applicable laws, statutes, constitutions, rules, regulations, ordinances, and rulings of any Governmental Authority and all applicable Governmental Orders.

“Leased Real Property” means all real property for which a Company Entity has a leasehold interest.

“Lenders” means the Persons that have committed to provide or have otherwise entered into an agreement with Buyer with respect to the Debt Financing to Buyer or any of its Affiliates in connection with the Transactions, including the parties that delivered the Debt Commitment and any commitment letters, engagement letters, joinder agreement, loan agreements, indentures or credit agreements entered into pursuant thereto or relating thereto, together with each former, current and future Affiliate thereof and each former, current and future officer, director, manager, employee, agent, Affiliate and representative, and the heirs, executors, successors and assigns, of any of the foregoing.

“Liability” means any liability (whether known or unknown, whether asserted or unasserted, whether absolute or contingent, whether accrued or unaccrued, whether liquidated or unliquidated, and whether due or to become due).

“Lien” means with respect to any property or Asset, including the Company Stock, (a) any mortgage, pledge, security interest, lien, servitude, claim, charge, option, right to acquire, right of pre-emption, right of first refusal, or other similar property or security interest or encumbrance in respect of such property or Asset, (b) any Easements, right-of-way, restrictions on use or transfer, restrictive covenants, rights, leases and other encumbrances on title to real or personal property (whether or not of record), or (c) any agreement to create any of the foregoing.

“Loss” means all losses, Liabilities, claims, demands, judgments, awards, assessments, damages, fines, suits, actions, costs and expenses (including reasonable third-party, out-of-pocket costs of investigation and defense and attorney and other professional or consulting fees) obligations, deficiencies and related interest and penalties.

“Make-Whole Amount” means the aggregate amount of any prepayment penalty, prepayment premium or make-whole payment that is or becomes payable to the Purchasers (as defined in the Note Purchase Agreement) under the Note Purchase Agreement in the event of Buyer’s payment, on behalf of the Company, as of the Closing of the outstanding amount owed to such Purchasers under the Note Purchase Agreement.

“Material Adverse Effect” means with respect to the Company Entities, any change, event, effect, state of facts, occurrence or development (each, an “Event”) that individually or in the aggregate has, or would reasonably be expected to have, a material adverse effect on the business, Assets, financial condition or results of operations of the Company Entities, taken as a whole; *provided, however*, that none

of the following shall constitute or be deemed, either alone or in combination, to constitute, or shall be taken into account in determining whether there has been, a Material Adverse Effect: [REDACTED]

[REDACTED]

“Material Contracts” means the following Contracts to which any Company Entity is a party (whether in effect as of the Effective Date or entered into following the Effective Date): (a) Contracts

for the future purchase, exchange, transmission, distribution or sale of electric power in any form, including energy, capacity, or emissions credits, other than in each case Contracts with a nominal value of less than [REDACTED] (b) other than Contracts of the nature addressed by clause (a) above, Contracts (i) for the future purchase or sale of any Asset or that grant a right or option to purchase or sell any Asset, or services other than Contracts with a nominal value of less than [REDACTED] (ii) for the future provision or receipt of any services or that grant a right or option to provide or receive any future services, other than in each case Contracts relating to services with a nominal value of less than [REDACTED] or (iii) that require future payments by or to any Company Entity in excess of, [REDACTED] (c) Contracts under which a Company Entity has created, incurred, assumed or guaranteed any Indebtedness in excess of [REDACTED] or under which a Company Entity has imposed a security interest on any of its Assets, tangible or intangible, which security interest secures outstanding Indebtedness in excess of [REDACTED] (d) outstanding Contracts of guaranty, indemnity or surety, by a Company Entity, with outstanding obligations guaranteed or indemnified by such Company Entity or for which such Company Entity is a surety in excess of [REDACTED] (e) Affiliate Contracts; (f) Contracts that limit a Company Entities' freedom to compete in the future in any line of business or in any geographic area; (g) partnership, joint venture, limited liability company or profit sharing agreements (other than any Governing Document of any Company Entity or "profit-sharing" contained in any Employee Benefit Plan); (h) Contracts relating to the Company Stock, or any other equity securities of a Company Entity or rights in connection therewith (other than any Governing Document of any Company Entity); (i) settlement, conciliation or other similar agreements with any Governmental Authority or third party, other than filed settlements related to rate cases and rate proceedings, pursuant to which an Company Entity is obligated after the date of this Agreement to (1) pay consideration in excess of [REDACTED] or (2) satisfy any material non-economic obligations; (j) Contracts for management, operation, or maintenance of a Company Entity; (k) any Contract containing (i) an exclusivity or similar obligation that purports to restrict arrangements with third parties for the purchase of any material good or material service, (ii) an option, right to acquire, right of pre-emption, or right of first refusal with respect to the Assets of any Company Entity for consideration in excess of [REDACTED] or (iii) a "most favored nations" clause and providing for consideration payable to or from a Company Entity in excess of [REDACTED] (l) outstanding futures, swap, collar, put, call, floor, cap, option or other Contracts that have underlying value and payment liability driven by or tied to fluctuations in the price of commodities, including electric power, natural gas, fuel, oil or other securities, other than in each case Contracts with a current market value of less than [REDACTED] (m) Contracts that require any Company Entity to dispose of or acquire (by merger or otherwise) any equity interests; (n) Contracts for (i) the employment of any Employee or (ii) engagement of any natural person independent contractor that provides for annual compensation in excess of [REDACTED] (other than any "at will" contract that may be terminated by any Company without further monetary or other legal obligation upon advance notice of thirty (30) days or less.); and (o) Collective Bargaining Agreements.

"MPSC" means the Michigan Public Service Commission.

"MPSC Approval" means any approval by the MPSC that is required in connection with the consummation of the Transactions.

"Multiemployer Plan" has the meaning set forth in Section 3(37) of ERISA.

"Net Working Capital" means the net working capital of the Company Entities calculated on a consolidated basis in accordance with the formula, methodologies, principles and adjustments set forth in Exhibit A. Notwithstanding anything to the contrary contained herein, in no event shall "Net Working

Capital” include any amounts constituting or reflected in Closing Cash, restricted cash, Closing Indebtedness, intercompany Indebtedness among the Company Entities (including the Intercompany Note), the Closing PPP Loan Balance or the Make-Whole Amount (if any).

“Non-Recourse Party” has the meaning set forth in Section 8.2.

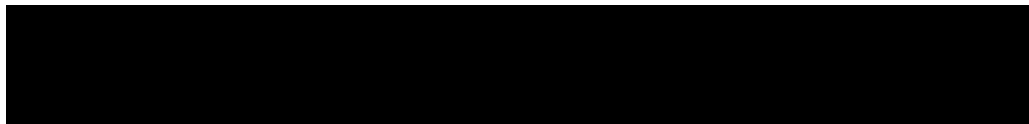
“Note Purchase Agreement” means the Note Purchase Agreement between the Company and each of the Purchasers (as defined therein) and the Bank of New York Mellon as collateral agent dated September 16, 2014, as amended on May 5, 2015, November 16, 2018, December 20, 2019, and April 16, 2020, together with the Security Agreement and other Collateral Documents (in each case, as defined therein).

“Objection Notice” has the meaning set forth in Section 2.3(c).

“OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“Owned Real Property” has the meaning set forth in Section 3.8(a).

“Owned Real Property Agreement” has the meaning set forth in Section 3.8(a).



“Party” or “Parties” has the meaning set forth in the introductory clause to this Agreement.

“Pay-off Letters” has the meaning set forth in Section 2.5(a)(x).

“Pending Claim Amount” has the meaning set forth in Section 8.7(a).

“Permits” means permits, licenses, franchises, registrations, variances, authorizations, consents and approvals obtained from any Governmental Authority.

“Permitted Liens” means any (a) mechanic’s, materialmen’s, laborer’s, workmen’s, repairmen’s, carrier’s and similar Liens, including all statutory Liens, arising or incurred in the ordinary course of business, and if delinquent, that are being contested in good faith and for which adequate reserves exist on the books and records of the Company, (b) Liens for Taxes, assessments and other governmental charges not yet due and payable or being contested in good faith through appropriate proceedings and for which adequate reserves exist on the books and records of the Company, (c) purchase money Liens and Liens securing rental payments under capital lease arrangements, (d) pledges or deposits under workers’ compensation legislation, unemployment insurance Laws or similar Laws, (e) good faith deposits in connection with bids, tenders, leases, contracts or other agreements, including rent security deposits, (f) pledges or deposits to secure public or statutory obligations or appeal bonds, (g) Liens expressly set forth in the Financial Statements, (h) other Liens securing Indebtedness and other liabilities which have otherwise been disclosed to and approved by Buyer in writing, (i) zoning, entitlement, building and other land use restrictions and environmental regulations by any Governmental Authority so long as such restrictions and regulations do not, in the aggregate, materially interfere with or detract from the Company Entities’ ability to conduct the Business (as now conducted), (j) such other imperfections in title, Easements, servitudes, covenants, conditions, restrictions, permits, zoning ordinances and similar encumbrances or imperfections of title which do not materially impair the current use, occupancy or value of the property subject thereto in the operation of the Business, (k) Liens arising under or created by any

Material Contract, the Debt Agreements or any Transaction Document, in each case, other than Liens arising as a result of breach thereof, (l) any Lien to be released on or prior to the Closing if actually released, (m) Liens created by or through Buyer or any Affiliate of Buyer as of the Closing, (n) any matters than an accurate survey of the real property would disclose and which do not materially impair the current use or occupancy of the real property to which such matters relate, and (o) Liens listed in Section 1.1-PL of the Seller Disclosure Schedule.

“Person” means an individual, partnership, limited liability partnership, corporation, limited liability company, association, joint stock company, trust, estate, joint venture, union, unincorporated organization or Governmental Authority.

“Personal Data” means, all data relating to one or more individual(s) that is personally identifying (i.e., data that identifies an individual or, in combination with any other information or data available to the Company Entities, is capable of identifying an individual) that is regulated or protected by one of more federal or state Laws concerning the privacy and/or security of personal data of or concerning an individual or the subject of data protection or security obligations of the Company Entities under any of its privacy policies or any Contract entered into by any Company Entity.

“PPACA” has the meaning set forth in Section 3.13(j).

“PPP Claim Amount” means the amount of any fines, penalties or damages imposed under or in connection with the PPP Loan.

“PPP Escrow Agreement” means an escrow agreement, dated on or before the Closing Date and effective on the Closing Date, by and among Buyer, Seller and the PPP Lender, in its capacity as escrow agent thereunder, in form and substance reasonably acceptable to Buyer and Seller.

“PPP Law” means the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 (as modified by the Paycheck Protection Flexibility Act of 2020) and the Paycheck Protection Program promulgated thereunder by the SBA.

“PPP Lender” means Range Bank N.A.

“PPP Loan” means that certain PPP Loan issued to UPPCO by the PPP Lender as evidenced by that certain Promissory Note, dated as of April 17, 2020, by and between UPPCO and the PPP Lender.

“PPP Loan Application” means that certain Paycheck Protection Program Borrower Application Form of UPPCO, dated April 3, 2020.

“PPP Loan Documents” means the PPP Loan Application and all other documents, agreements, promissory notes, certificates, instruments and acknowledgements evidencing and related to the PPP Loan (including amendments, modifications, substitutions or replacements thereof).

“PPP Loan Holdback Expiration Date” means the earlier of (a) the date that is one hundred eighty (180) days after the Closing Date and (b) the date the Forgiveness Determination has occurred if the full amount of the PPP Loan is determined to be subject to Forgiveness.



“Pre-Closing Period” has the meaning set forth in Section 6.1(a).

“Property Taxes” has the meaning set forth in Exhibit A.

“PUHCA 2005” shall have the meaning set forth in Section 3.17(a).

“R&W Insurance Policy” means the buyer-side representations and warranties insurance policy to be issued by Liberty Surplus Insurance Corporation to Purchaser in connection with the Transactions, or any similar replacement or substitute buyer-side representations and warranties insurance policy issued to Purchaser in connection with the Transactions.

“Real Property” has the meaning set forth in Section 3.8(d).

“Real Property Agreement” has the meaning set forth in Section 3.8(d).

“Real Property Lease” means a lease (including all amendments, extensions, renewals, guaranties and other agreements with respect thereto) for the Leased Real Property.

“Reference Time” has the meaning set forth in Section 2.3(b).

“Release” means any release, spill, emission, leaking, pumping, emitting, depositing, disposal, discharging, injecting, escaping, leaching, dispersing, dumping, pouring, disposing or migrating of any Hazardous Substances into, onto or through the environment, including ambient air, surface water, ground water, land surface or subsurface strata, whether intentional or unintentional.

“Remediate” or “Remedial Action” means the removal, abatement, response action, investigation, cleanup or monitoring activities undertaken to address Hazardous Substances in the environment pursuant to Environmental Laws, including any study, assessment, testing, monitoring, containment, removal, disposal, closure, corrective action, passive remediation, monitored natural attenuation or bioremediation, and the installation and operation of remediation systems.

“Remedies Exception” means (a) applicable bankruptcy, insolvency, reorganization, moratorium, and other Laws of general application, heretofore or hereafter enacted or in effect, affecting the rights and remedies of creditors generally, and (b) the exercise of judicial or administrative discretion in accordance with general equitable principles, particularly as to the availability of the remedy of specific performance or other injunctive relief.

“Representatives” means, with respect to any specified Person, such Person’s officers, directors, managers, employees, partners, agents, attorneys, accountants, insurance providers, advisors and other representatives, as applicable. The Representatives of Seller shall include Basalt Infrastructure Partners LLP and its affiliates.

“Required Governmental Approvals” has the meaning set forth in Section 3.4.

“Restricted Parties Lists” has the meaning set forth in Section 4.7(b).

“Right” means any options, warrants, purchase rights, subscription rights, conversion rights, exchange rights or other right, however denominated, to subscribe for, purchase or otherwise acquire any equity interest or other security of any class, with or without payment of additional consideration in cash or property, either immediately or upon the occurrence of a specified date or a specified event or the satisfaction or happening of any other condition or contingency.

“Sanctioned Entity” means (a) an agency of the government of, (b) an organization directly or indirectly owned 50% or more or controlled by, or (c) an individual that acts on behalf of, a country or territory that is subject to, or the target of, comprehensive Sanctions, including a sanctions program identified on the list maintained by OFAC and available at <http://www.treas.gov/offices/enforcement/ofac/programs>, or as otherwise published from time to time, to the extent that such program administered by OFAC is applicable to any such agency, organization or individual.

“Sanctioned Person” means a Person named on the list of Specially Designated Nationals or Blocked Persons maintained by OFAC available at <http://www.treas.gov/offices/enforcement/ofac/sdn/index.html>, or a Person named on a list maintained by the U.S. Department of State’s Office of Sanctions Policy and Implementation, or as otherwise published from time to time or any other Sanctions-related list of designated Persons maintained by an applicable Governmental Authority described in the definition of “Sanctions.”

“Sanctions” means any sanctions imposed, administered or enforced from time to time by OFAC, the U.S. Department of State, Her Majesty’s Treasury, the United Nations, the European Union, or any agency or subdivision of any of the foregoing, including any regulations, rules, and executive orders issued in connection therewith.

“SBA” means the U.S. Small Business Administration.

“Securities Act” means the Securities Act of 1933, as amended.

“Seller” has the meaning set forth in the introductory clause to this Agreement.

“Seller Disclosure Schedule” means the disclosure schedule delivered by Seller to Buyer on the Effective Date and attached hereto.

“Seller Fundamental Representations” means, collectively, the representations and warranties in Section 3.1 (Organization of the Company Entities), Section 3.2 (Non-Contravention), Section 3.3 (Title to UPPCO Stock; Capitalization), Section 4.1 (Organization), Section 4.2 (Authorization), Section 4.3 (Non-Contravention), Section 4.4 (Title to Company Stock), and Section 4.6 (Brokers’ Fees).

“Seller’s Counsel” has the meaning set forth in Section 10.11(a).

“Settlement Date” has the meaning set forth in Section 2.3(e).

“Straddle Period” means any taxable period that includes (but does not end on) the Closing Date.

“Subsidiary” means, with respect to any Person, any corporation of which a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person or a combination thereof, or any partnership, limited liability company, association or other business entity of which a majority of the partnership, limited liability company or other similar ownership interest is at the time owned or controlled, directly or indirectly, by such Person or one or more Subsidiaries of such Person or a combination thereof.

“Tax” means all federal, state, provincial, local, foreign or other taxes and any other duties, levies assessments, fees or other charges in the nature of a tax, including all income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs, duties, capital stock, ad valorem, value-added, inventory, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, escheat or unclaimed property, sales, use, transfer, registration, alternative or add-on minimum, or estimated tax, and including any interest, penalty or addition thereto.

“Tax Benefit” means the Tax effect of any item of loss, deduction or credit or any other Tax item which decreases Taxes paid or payable or increases tax basis, including any interest with respect thereto or interest that would have been payable but for such item. Buyer Indemnitee and its Affiliates (including the Company Entities after the Closing) shall be deemed to realize or utilize any Tax Benefit for purposes of Section 8.9 solely to the extent that such Tax Benefit resulted in a decrease in a Tax liability (or an increase in a Tax refund) of such party (or any consolidated, combined or unitary group that includes such party) in the taxable year in which the Indemnified Loss relating thereto is incurred (or any prior taxable year), (i) that would not have occurred but for such item of loss, deduction, credit or other Tax item (determined on a with and without basis) and (ii) that will not be reversed in a subsequent taxable period. The calculation of any such Tax Benefit (and for the avoidance of doubt, the net Tax Benefit and net Tax costs relating to a claim or indemnity payment for purposes of Section 8.9) shall be performed by the applicable Buyer Indemnitee in consultation with its independent accounting or legal advisor (which calculation shall be made in good faith and shall be accompanied by a reasonable detailed written explanation thereof prepared by the applicable Buyer Indemnitee’s independent accounting or legal advisor delivered to Seller) and be binding on all Parties hereto, absent manifest error.

“Tax Return” means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof, required to be filed with any Governmental Authority.

“Taxing Authority” means, with respect to any Tax, any Governmental Authority that imposes such Tax, and any agency charged with the assessment, determination, administration, imposition or collection of such Tax for any such Governmental Authority.

“Termination Date” has the meaning set forth in Section 9.1(a).

“Third Party Claim” has the meaning set forth in Section 8.6.

“Third Party Claim Notice” has the meaning set forth in Section 8.6(a).

“Transaction Documents” means this Agreement and all other documents and instruments delivered pursuant to this Agreement.

“Transaction Expenses” has the meaning set forth in Exhibit A.

“Transactions” means the purchase and sale of the Company Stock and the other transactions contemplated by the Transaction Documents.

“Transfer Taxes” means all transfer, sales, use, goods and services, value added, documentary, stamp duty, excise, transfer and conveyance Taxes and other similar Taxes, duties, fees or charges, including the Taxes described in Section 6.12.

“Treasury” means the U.S. Department of the Treasury.

“Treasury Regulations” means the U.S. Treasury Regulations promulgated under the Code.

“Unduly Burdensome Condition” means any actions, undertakings, terms, conditions, liabilities, commitments, sanctions or other measures imposed or required by the MPSC in connection with the Transactions, in each case, that have a Material Adverse Effect (without giving effect to the exclusion contained in clause (m) or clause (s)(i) of the definition of Material Adverse Effect) after giving effect to the Transactions.

“UPPCO” has the meaning set forth in the recitals to this Agreement.

“UPPCO Employees” has the meaning set forth in Section 6.6(a).

“UPPCO Revolving Credit Agreement” means the Revolving Credit Agreement dated as of September 7, 2017, as amended on December 20, 2019, and April 16, 2020, by and among UPPCO as borrower, the lenders party thereto, the Associated Bank, N.A. as administrative agent and issuing bank, and Associated Bank, N.A. as sole lead arranger and sole bookrunner.

“UPPCO Stock” has the meaning set forth in the recitals to this Agreement.

“VEBA” has the meaning set forth in Section 3.13(d).

“WARN Act” means the federal Worker Adjustment and Retraining Notification Act of 1988, and any similar state, local, or foreign Law.

## Section 1.2 Terms Generally.

(a) The definitions in Section 1.1 shall apply equally to both the singular and plural forms and to correlative forms of the terms defined.

(b) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(c) The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation.”

(d) The words “hereby,” “herewith,” “hereto,” “herein,” “hereof” and “hereunder” and words of similar import refer to this Agreement (including the Exhibits and Schedules to this Agreement and the Seller Disclosure Schedule) in its entirety and not to any part hereof unless the context shall otherwise require.

(e) The word “or” has the inclusive meaning represented by the phrase “and/or.”

(f) Unless the context shall otherwise require, all references herein to Articles, Sections, Exhibits, Schedules and the Seller Disclosure Schedule shall be deemed references to Articles, Sections and Exhibits of, and Schedules and the Seller Disclosure Schedule to, this Agreement and references to “paragraphs” or “clauses” shall be to separate paragraphs or clauses of the section or subsection in which the reference occurs.

(g) Unless the context shall otherwise require, any references to Law or any Contract shall be deemed to be references to such Law or Contract as amended, supplemented or modified from time

to time in accordance with its terms and the terms hereof, as applicable, and in effect at any given time (and to any successor provisions).

(h) Unless the context shall otherwise require, references to any Person include references to such Person's successors and permitted assigns, and in the case of any Governmental Authority, to any Person(s) succeeding to its functions and capacities.

(i) Any reference to any federal, state, local, or foreign statute or Law shall be deemed also to refer to all rules and regulations promulgated thereunder, unless the context shall otherwise require.

(j) Any reference in this Agreement to a "day" or a number of "days" (without explicit reference to "Business Days") shall be interpreted as a reference to a calendar day or number of calendar days. If any action is to be taken or given on or by a particular calendar day, and such calendar day is not a Business Day, then such action may be deferred until the next Business Day.

(k) All monetary figures shall be in U.S. dollars unless otherwise specified.

## ARTICLE II

### PURCHASE AND SALE OF THE COMPANY STOCK

Section 2.1 Purchase and Sale of the Company Stock. Upon the terms and subject to the satisfaction or waiver, if permissible, of the conditions of this Agreement, Buyer agrees to purchase and acquire from Seller, and Seller agrees to sell, assign, convey, transfer and deliver to Buyer, all of the Company Stock, at the Closing, for the Closing Consideration.

Section 2.2 Purchase Price. At Closing, Buyer shall deposit, or cause to be deposited, cash (by wire transfer of immediately available funds) in an amount that is sufficient to pay the Closing Consideration, as set forth in the written statement delivered by Seller in accordance with Section 2.3(a), to the account(s) indicated by Seller to Buyer in writing prior to the Closing.

Section 2.3 Closing Statement; Purchase Price Adjustments. The Closing Consideration shall be adjusted (such adjustment may be positive or negative), if at all, on an aggregate (as provided for herein) dollar-for-dollar basis as set forth below.

(a) Within ten (10) Business Days prior to the Closing, but in no event less than five (5) Business Days prior to the Closing, Seller shall prepare and deliver to Buyer a written statement that sets forth (i) a good faith estimate of the Closing Cash ("Estimated Closing Cash"); (ii) a good faith estimate of the Net Working Capital (the "Estimated Closing Date Net Working Capital"); (iii) a good faith estimate of the Closing Indebtedness (the "Estimated Closing Indebtedness"); (iv) a good faith estimate of the Capital Expenditures (the "Estimated Capital Expenditures"); and (v) a good faith estimate of the Closing PPP Loan Balance, if any (the "Estimated Closing PPP Loan Balance"), each as of the Reference Time, and on the basis of the foregoing, the calculation of the Closing Consideration payable at the Closing. In connection with delivery of such written statement, Seller shall provide Buyer with such documents and information as is reasonably required for Buyer's understanding of Seller's determination of Estimated Closing Cash, Estimated Closing Date Net Working Capital, Estimated Closing Indebtedness, Estimated Capital Expenditures, and Estimated Closing PPP Loan Balance (if any), and Seller shall provide Buyer reasonable access to applicable records and personnel in connection with Buyer's review thereof. The Estimated Closing Cash, Estimated Closing Date Net Working Capital, Estimated Closing Indebtedness, Estimated Capital Expenditures, and Estimated Closing PPP Loan Balance (if any), and the respective determinations and calculations contained therein, shall be prepared and calculated based on consolidated

financial statements that the Company Entities prepared in accordance with GAAP and, in the case of the Estimated Closing Date Net Working Capital, applied in a manner consistent with the Accounting Principles and sample calculation of Net Working Capital set forth on Exhibit A.

(b) Buyer shall prepare and deliver to Seller as soon as practicable but in no event more than sixty (60) days after the Closing Date an unaudited consolidated balance sheet of the Company (the “Closing Balance Sheet”) as of 12:01 a.m., Eastern Time, on the Closing Date (the “Reference Time”), which shall also set forth a good faith calculation (the “Final Calculation”) of (i) the Net Working Capital (the “Final Closing Net Working Capital”), (ii) the Closing Cash (the “Final Closing Cash”), (iii) the Closing Indebtedness (the “Final Closing Indebtedness”), and (iv) the Capital Expenditures (the “Final Capital Expenditures”), each as of the Reference Time. In connection with Buyer’s delivery of the Closing Balance Sheet pursuant to this Section 2.3(b), (A) if the Forgiveness Determination has not yet occurred or (B) all or a portion of the PPP Loan is determined not to be subject to Forgiveness and such amount exceeds the amount escrowed with the PPP Lender, Buyer shall have the right to prepare and deliver to Seller a good faith calculation of the Closing PPP Loan Balance (the “Final Closing PPP Loan Balance”) as of the Reference Time. The Closing Balance Sheet, Final Closing Net Working Capital, Final Closing Cash, Final Closing Indebtedness, Final Capital Expenditures, Final Closing PPP Loan Balance and the Final Calculation shall be prepared in accordance with this Agreement. Subject to the Accounting Principles, the Parties agree that the purpose of preparing the Closing Balance Sheet and determining the Final Closing Net Working Capital, Final Closing Cash, Final Closing Indebtedness, Final Capital Expenditures and Final Closing PPP Loan Balance is to measure changes in Net Working Capital, Closing Cash, Closing Indebtedness and the Closing PPP Loan Balance, and such processes are not intended to permit the introduction of different judgments, accounting methods, policies, principles, practices, procedures, classifications or estimation methodologies for the purpose of preparing the Closing Balance Sheet or determining Net Working Capital, Closing Cash, Closing Indebtedness, Capital Expenditures or the Closing PPP Loan Balance. Following the Closing, Buyer shall not take any actions with respect to the accounting books and records of the Company which would affect the Closing Balance Sheet, the Final Calculation and the Final Closing PPP Loan Balance.

(c) Subject to Buyer’s timely compliance with the third sentence of this Section 2.3(c), on or prior to the thirtieth (30th) day following Buyer’s delivery of the Closing Balance Sheet, the Final Calculation and the Final Closing PPP Loan Balance, Seller may give Buyer written notice stating Seller’s objections (an “Objection Notice”) to the Closing Balance Sheet or the determination of the Final Closing Net Working Capital, Final Closing Cash, Final Closing Indebtedness, Final Capital Expenditures or Final Closing PPP Loan Balance. Any Objection Notice shall specify the dollar amount of any objection (to the extent then determinable) and the basis therefor. During such thirty (30) day period, Buyer shall cause the Company Entities to provide Seller and its Representatives with reasonable access to the Company Entities’ facilities, books and records and its personnel and accountants and use reasonable best efforts to cause its personnel and accountants to cooperate with Seller, in each case until the Final Calculation set forth in Section 2.3(b) is made. Subject to Buyer’s timely compliance with the previous sentence, if Seller does not give Buyer an Objection Notice within such thirty (30) day period, then the Closing Balance Sheet, the Final Calculation and the Final Closing PPP Loan Balance will become final and binding upon Buyer and Seller.

(d) Following Buyer’s receipt of any Objection Notice, Seller and Buyer shall attempt to negotiate in good faith to resolve such dispute with respect to the Closing Balance Sheet or the determination of the Final Closing Net Working Capital, Final Closing Cash, Final Closing Indebtedness, Final Capital Expenditures and Final Closing PPP Loan Balance. Any disputed items resolved in writing between Seller and Buyer within thirty (30) days after Buyer receives the Objection Notice shall be final and binding with respect to such items. In the event that Buyer and Seller fail to agree on any of Seller’s proposed adjustments set forth in the Objection Notice within such thirty (30) day period, Seller and Buyer

agree that KPMG LLP (the “Independent Accounting Firm”) shall, acting as an expert and not an arbitrator, within the thirty (30)-day period immediately following such failure to agree and at the request of at least one of the Parties on notice to the other, make the final determination of the disputed determination of the Final Closing Net Working Capital, Final Closing Cash, Final Closing Indebtedness, Final Capital Expenditures and/or Final Closing PPP Loan Balance, in each case, in accordance with the terms of this Agreement. Each of Buyer and Seller shall provide the Independent Accounting Firm and the other with its respective determination of the Final Closing Net Working Capital, Final Closing Cash, Final Closing Indebtedness, Final Capital Expenditures and/or Final Closing PPP Loan Balance. The Independent Accounting Firm shall make an independent determination of the disputed items that, assuming compliance with the previous clause, shall be final and binding on Buyer and Seller. The scope of the disputes to be resolved by the Independent Accounting Firm shall be limited to whether such calculation was done in accordance with the terms hereof, and whether there were mathematical errors in the calculation of the Final Closing Net Working Capital, Final Closing Cash, Final Closing Indebtedness, Final Capital Expenditures and/or Final Closing PPP Loan Balance. The Independent Accounting Firm shall be instructed to resolve only the disputed items and amounts set forth in the Objection Notice based solely on presentations and supporting material provided by Buyer and Seller and not pursuant to any independent review or investigation. The costs and expenses of the Independent Accounting Firm shall be paid by the Party whose proposed Final Calculation and/or Final Closing PPP Loan Balance was different by the greater amount from that of the final determination of the Independent Accounting Firm. The determination of the Independent Accounting Firm shall be conclusive and binding upon the Parties and shall not be subject to appeal or further review. Except as otherwise expressly provided in this Agreement, the Parties covenant and agree that no amount shall be (or is intended to be) included, in whole or in part (either as an increase or a reduction), more than once in the calculation of (including any component of) the Final Closing Net Working Capital or any other calculated amount pursuant to this Agreement if the effect of such additional inclusion (either as an increase or a reduction) would be to cause such amount to be over- or under-counted for purposes of such calculation.

(e) The date on which the Closing Balance Sheet, including the Final Calculation, and the Final Closing PPP Loan Balance is finally determined pursuant to this Section 2.3 or the date on which the Closing Consideration is deemed to be final and binding pursuant to Section 2.3(b) shall hereinafter be referred to as the “Settlement Date.”

(f) Following the Settlement Date:

(i) If the Final Consideration is greater than the Closing Consideration, Buyer shall pay the absolute value of such difference by wire transfer of immediately available funds promptly (but in any event within five (5) Business Days following the Settlement Date) to the account(s) designated by Seller, and Buyer and Seller shall deliver joint written instructions to the Escrow Agent to release the amount held in the Adjustment Escrow Account to the account(s) designated by Seller less amounts, if any, to be released by the Escrow Agent pursuant to Section 2.3(f)(iii) or Section 2.3(f)(iv);

(ii) If the Final Consideration is less than the Closing Consideration, Seller and Buyer shall deliver joint written instructions to the Escrow Agent to release (A) the absolute value of such difference by wire transfer of immediately available funds to Buyer promptly (but in any event within five (5) Business Days following the Settlement Date) from the Adjustment Escrow Account to the account(s) designated by Buyer and (B) if any amount remains in the Adjustment Escrow Account following such payment to Buyer pursuant to clause (A), such remaining amount (less amounts, if any, to be released by the Escrow Agent pursuant to Section 2.3(f)(iii) or Section 2.3(f)(iv)) to the account(s) designated by Seller; *provided*, that if the absolute value of such difference is an amount greater than the amount in the Adjustment Escrow Account,

then promptly (but in any event within five (5) Business Days following the final determination of the Final Consideration) Seller shall pay the amount of such excess to the account(s) designated by Buyer;

(iii) If the Final Closing PPP Loan Balance is greater than the Closing PPP Loan Balance and the Forgiveness Determination has not yet occurred, Buyer and Seller shall promptly (but in any event within five (5) Business Days following the Settlement Date) deliver joint written instructions to the Escrow Agent to release the absolute value of such difference to the account of the PPP Lender, in its capacity as escrow agent under the PPP Escrow Agreement; *provided*, that, if the absolute value of such difference is an amount greater than the amount in the Adjustment Escrow Account (after giving effect to any releases to Buyer pursuant to Section 2.3(f)(i) or Section 2.3(f)(ii)), promptly (but in any event within five (5) Business Days following the Settlement Date), Seller shall pay the amount of such excess to the account of the PPP Lender, in its capacity as escrow agent under the PPP Escrow Agreement.

(iv) If the Final Closing PPP Loan Balance is greater than the Closing PPP Loan Balance but all or a portion of the PPP Loan is determined not to be subject to Forgiveness and such amount exceeds the amount escrowed with the PPP Lender, Buyer and Seller shall promptly (but in any event within five (5) Business Days following the Settlement Date) deliver joint instructions to the Escrow Agent to release the absolute value of such difference to the account(s) designated by Buyer; *provided*, that if the absolute value of such difference is an amount greater than the amount in the Adjustment Escrow Account (after giving effect to any releases to Buyer pursuant to Section 2.3(f)(i) or Section 2.3(f)(ii)), promptly (but in any event within five (5) Business Days following the Settlement Date), Seller shall pay to Buyer, in immediately available funds, the amount of such excess; and

(v) If the Final Closing PPP Loan Balance is less than the Closing PPP Loan Balance and the Forgiveness Determination has not yet occurred, within five (5) Business Days following the Settlement Date Buyer and Seller shall issue a joint written instruction to the PPP Lender, in its capacity as the escrow agent under the PPP Escrow Agreement, instructing the PPP Lender to release to Seller the absolute value of such difference.

Section 2.4 Closing. Subject to the satisfaction or, when permissible, waiver of the conditions set forth in ARTICLE VII, the closing of the Transactions (the “Closing”) shall take place electronically, commencing at 10:00 a.m. Eastern Time on the date not later than three (3) Business Days after the date on which the last of the conditions set forth in ARTICLE VII (other than any such conditions which by their terms are not capable of being satisfied until the Closing Date) is satisfied or, when permissible, waived, or such other place, date and time as Seller and Buyer may agree (the “Closing Date”). Except to the extent expressly set forth in this Agreement to the contrary, and notwithstanding the actual occurrence of the Closing at any particular time on the Closing Date, the Closing shall be deemed to occur and be effective, (i) solely for accounting purposes, as of 12:01 A.M. (Eastern Time) on the Closing Date and (ii) for all other purposes, as of the time Buyer initiates the wire transfers contemplated in Section 2.5.

#### Section 2.5 Closing Deliveries.

(a) At the Closing, Seller shall deliver, or cause to be delivered, to Buyer the following:

(i) certificate(s) evidencing all of the shares of the Company Stock, duly endorsed in blank for transfer or accompanied by stock power duly executed in blank;



(ii) a certificate of good standing of Seller and each Company Entity certified by the Secretary of State of the applicable State, each issued not more than ten (10) Business Days prior to the Closing Date;

(iii) a certificate of an officer or duly authorized representative of Seller's general partner, in a form reasonably acceptable to Buyer, certifying that (A) attached are true and correct copies of the resolutions or consent of Seller's general partner authorizing the execution, delivery and performance of this Agreement, the other Transaction Documents to which it is a party and the consummation of the Transactions, (B) all such resolutions are in full force and effect and have not been repealed, contravened or amended and (C) such resolutions constitute all the resolutions adopted in connection with the Transactions;

(iv) to the extent requested by Buyer, resignations of the officers and managers of each Company Entity from their status as officers or managers effective as of the Closing;

(v) either (a) a certificate of Seller's non-foreign status in accordance with Treasury Regulations section 1.1445-2(b)(2) or (b) an Internal Revenue Service Form W-9 completed and duly executed by an authorized representative of Seller's general partner;

(vi) the resignations or evidence of removal of all directors and officers of the Company Entities nominated or appointed by Seller or its Affiliates, except for any directors or officers that Seller and Buyer have mutually agreed will not resign or be removed at or prior to the Closing;

(vii) if the Forgiveness Determination has not occurred at or prior to the Closing, the PPP Escrow Agreement, duly executed by Seller and the PPP Lender;

(viii) the Escrow Agreement, duly executed by Seller and the Escrow Agent;

(ix) the certificates referred to in Section 7.3(a) and Section 7.3(b); and

(x) unless the Existing Debt Election has been timely made, pay-off letters (in customary form and substance) from the administrative agent (or similar agent) or the lenders/holders under the Debt Agreements, that reflect the amounts required in order to pay in full the Indebtedness and any Make-Whole Amount evidenced by the Debt Agreements and related documentation and provide that, upon payment in full of the amounts indicated, all Liens securing such Indebtedness and any Make-Whole Amount shall be immediately terminated and released in full (the "Pay-off Letters"). Unless the Existing Debt Election has been timely made, Seller shall, and shall cause the Company Entities to, use commercially reasonable efforts to provide Buyer draft Pay-off Letters reasonably in advance of the anticipated Closing Date and consider in good faith any comments to such Pay-Off Letters that are reasonably and timely proposed by Buyer.

(b) At the Closing, Buyer shall deliver, or cause to be delivered to Seller:

(i) a certificate of good standing of Buyer certified by the Secretary of State of the state in which Buyer was incorporated or formed, as is the case, issued not more than ten (10) Business Days prior to the Closing Date;

(ii) a certificate of Buyer's Secretary or other duly authorized representative or officer, in a form reasonably acceptable to Seller, certifying that (A) attached are true and correct copies of the resolutions of Buyer's managing member authorizing the execution, delivery and

performance of this Agreement, the other Transaction Documents to which it is a party and the consummation of the Transactions, (B) all such resolutions are in full force and effect and have not been repealed, contravened or amended and (C) such resolutions constitute all the resolutions adopted in connection with the Transactions;

(iii) the Closing Consideration in accordance with Section 2.2;

(iv) unless the Existing Debt Election has been timely made, an amount sufficient to pay all amounts provided for in the Pay-off Letter, including the Make-Whole Amount, to be paid in accordance with the Pay-off Letters;

(v) if the Forgiveness Determination has not occurred at or prior to the Closing, the PPP Escrow Agreement, duly executed by Buyer;

(vi) the Escrow Agreement, duly executed by Buyer; and

(vii) the certificates referred to in Section 7.2(a) and Section 7.2(b).

(c) At the Closing, if the Closing PPP Loan Balance is greater than \$0, Buyer shall deliver, in immediately available funds, an amount equal to the Closing PPP Loan Balance as follows:

(i) if the Forgiveness Determination has occurred at or prior to the Closing (and all or part of the PPP Loan was not Forgiven), to the account of the PPP Lender, indicated by Seller to Buyer in writing prior to the Closing, to repay the PPP Loan; or

(ii) if the Forgiveness Determination has not occurred at or prior to the Closing, to the account of the PPP Lender, in its capacity as escrow agent under the PPP Escrow Agreement, in accordance with the PPP Escrow Agreement.

(d) At the Closing, in accordance with the Escrow Agreement, Buyer shall deposit, or cause to be deposited, cash (by wire transfer of immediately available funds), (i) if the R&W Insurance Policy has been issued prior to the Closing, an amount equal to the Indemnity Escrow Amount to the Indemnity Escrow Account and (ii) an amount equal to the Adjustment Escrow Amount to the Adjustment Escrow Account.

**Section 2.6** Withholding. Notwithstanding anything in this Agreement to the contrary, each of the Company, Seller and Buyer will be entitled to deduct and withhold, or cause to be deducted and withheld, from any amounts otherwise payable pursuant to this Agreement to any Person such amounts as it is required to deduct and withhold with respect to the making of such payment under the Code, and the rules and regulations promulgated thereunder, or any provision of any Law. To the extent that amounts are so withheld, such withheld amounts will be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction and withholding was made. Any decision by the Company or Buyer or any of its Affiliates to deduct and withhold any amounts from a payment pursuant to this Agreement (aside from the payment of wages for applicable Tax purposes) shall only be made after prior consultation with Seller, which shall include providing Seller with a written notice describing the amount and basis for such deduction and withholding at least five (5) days prior to the Closing Date and providing Seller with the opportunity to produce any forms, certificates and other documentation that may eliminate or reduce such deduction and withholding amount, it being understood that Buyer and its Affiliates shall reasonably cooperate with Seller in securing any available reduction or exemption from withholding Tax.

## ARTICLE III

### REPRESENTATIONS AND WARRANTIES REGARDING THE COMPANY ENTITIES

Seller represents and warrants to Buyer, except as set forth in the Seller Disclosure Schedule, that the statements contained in this ARTICLE III are true and correct as of the Effective Date and the Closing Date:

#### Section 3.1 Organization of the Company Entities.

(a) Each Company Entity (i) is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its organization and (ii) has all requisite organizational power and authority to carry on its respective business as it is currently conducted and to own, lease and operate its Assets where such properties are now owned, leased or operated. Seller has made available to Buyer a true and complete copy of the Governing Documents of each Company Entity.

(b) Each Company Entity is duly qualified or licensed to do business and is in good standing in each jurisdiction in which the Asset owned, leased or operated by it or the nature of the business conducted by it makes such qualification or licensure necessary, except in such jurisdictions where the failure to be so duly qualified or licensed or in good standing would result in a Material Adverse Effect.

Section 3.2 Non-Contravention. Assuming the truth and accuracy of the representations and warranties of Buyer set forth in ARTICLE V, except as set forth on Section 3.2 of the Seller Disclosure Schedule, neither the execution and delivery of this Agreement by Seller, nor the consummation by Seller or the Company Entities of the Transactions, (a) conflicts with or will result in the violation or breach of any provision of the respective Governing Documents of the Company Entities, (b) assuming the receipt of the Consents set forth in Section 3.2 of the Seller Disclosure Schedules (collectively, the “Additional Consents”), violates or results in a breach of, results in the acceleration of, creates in any party the right to accelerate, terminate, modify, or cancel any Material Contract, (c) assuming receipt of the Consents of Governmental Authorities described in Section 3.4, violates, in any material respect, any Law or Permit to which any Company Entity is subject, or (d) results in the imposition or creation of any Lien (other than Permitted Liens).

#### Section 3.3 Title to UPPCO Stock: Capitalization.

(a) The Company is the direct owner, holder of record and beneficial owner of, and has valid title to, 100% of the issued and outstanding UPPCO Stock, free and clear of all Liens other than Liens arising under the Debt Agreements, the Governing Documents of the Company Entities and applicable securities Laws.

(b) The UPPCO Stock was duly authorized and validly issued.

(c) Section 3.3 of the Seller Disclosure Schedule sets forth a list of the Company Entities, and with respect to each Company Entity, (i) its name and jurisdiction of organization, (ii) its form of organization and (iii) the equity interests of such Company Entity owned, directly or indirectly, by Seller.

(d) Except for this Agreement, neither Seller nor any Company Entity is a party to any Rights or Contracts, agreements or commitments that would require Seller to sell, transfer or otherwise dispose of such equity interests in the Company Entities. Neither Seller nor any Company Entity is a party to any voting trust, proxy or other agreement or understanding with respect to the voting of such equity

interests in the Company Entities. No Company Entity has any subsidiary or owns any equity interest in another Person, in each case, other than another Company Entity.

Section 3.4 Government Authorizations. No Consent of, with or to any Governmental Authority is required to be obtained or made by Seller or any Company Entity in connection with the execution and delivery of this Agreement or the consummation of the Transactions, other than (a) the Consents set forth in Section 3.4 of the Seller Disclosure Schedule (collectively, the “Required Governmental Approvals”), (b) requirements of any applicable provisions of the Securities Act or any other applicable securities Laws, (c) the Additional Consents, (d) requirements applicable solely as a result of the specific legal or regulatory status of Buyer or any of its Affiliates or as a result of any other facts that specifically relate to the business or activities in which Buyer or any of its Affiliates is or proposes to be engaged, other than the Business, or (e) those Consents the failure of which to obtain or make would not be material to the Company Entities, taken as a whole.

Section 3.5 Financial Statements; No Undisclosed Liabilities.

(a) Seller has made available to Buyer copies of the following financial statements (such financial statements, the “Financial Statements”): (i) the audited consolidated balance sheets of each of the Company and UPPCO as of December 31, 2017, 2018 and 2019, and the related audited consolidated income statement, statements of equity, and cash flows for the fiscal years then ended; and (ii) the unaudited consolidated balance sheets of each of the Company and UPPCO as of September 30, 2020 (the “Balance Sheet Date” and such balance sheets, the “Interim Balance Sheets”), and the related consolidated income statement, statements of equity and cash flows for the nine (9) months then ended;

(b) The Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby, except as may be indicated in the notes thereto and fairly present, in all material respects, the financial position of the Company and UPPCO, as applicable;

(c) Each Company Entity maintains and complies in all material respects with a system of internal accounting controls designed to provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP (except as may be set forth in the notes thereto).

(d) Except for (i) current Liabilities set forth on the Estimated Closing Date Net Working Capital, (ii) Liabilities set forth on the Financial Statements and notes thereto, (iii) Liabilities arising under any Material Contract (which, for the avoidance of doubt, shall not include any Liability related to any breach or default by the Company Entities under any such Material Contract), and (iv) Liabilities that have arisen after the Balance Sheet Date in the ordinary course of business (none of which results from or arises out of any material default under any Contract, material breach of warranty, tort, material infringement or material violation of Law by the Company Entities), neither of the Company Entities have any Liabilities that would be required to be reflected on the consolidated balance sheet of such entity prepared in accordance with GAAP, which are not reflected or reserved against in the unaudited balance sheets included in the Financial Statements

Section 3.6 Absence of Certain Changes. Except as contemplated by this Agreement, since the Balance Sheet Date, and until the Closing Date, (a) the Company Entities have in all material respects conducted their respective Businesses in the ordinary course of business consistent with past practices, (b) there has not been any Material Adverse Effect and (c) the Company Entities have not suffered any loss, damage, destruction or other casualty affecting any of their respective assets, whether or not covered by insurance.

Section 3.7 Tax Matters.

(a) Each of the Company Entities has timely filed, taking into account all valid extensions, all Tax Returns required to have been filed and such Tax Returns are true, correct and complete in all material respects. Each of the Company Entities has timely paid in full all material Taxes required to be paid (whether or not shown on such Tax Returns) and withheld and timely remitted to the appropriate Taxing Authority all material Taxes required to be withheld from amounts owing to any employee, creditor or third party, and has complied with all material information reporting requirements related thereto.

(b) No audit, examination, investigation or other proceeding is pending with any Taxing Authority with respect to any material amount of Taxes asserted against any Company Entity and no Company Entity has received written notice of any threatened audit, examination, investigation or other proceeding from any Taxing Authority for any material amount of Taxes asserted against any Company Entity, which has not been fully paid or settled.

(c) No Company Entity has waived any statute of limitations with respect to, or requested any extension of a period for, the assessment of any material Tax which has not yet expired (excluding extensions of time to file Tax Returns obtained in the ordinary course).

(d) No Company Entity has any Liability for material Taxes of any Person (except for the Company or UPPCO) arising from the application of Treasury Regulations Section 1.1502-6 or any analogous provision of state, local or foreign Law, as a transferee or successor or by contract (other than any contract entered into in the ordinary course of business that is a commercial or employment agreement, no principal purpose of which relates to Taxes).

(e) No Company Entity is a party to or is otherwise bound by any Tax sharing, allocation or indemnification agreement or arrangement, except for such an agreement or arrangement (i) exclusively between or among the Company Entities; (ii) that is a commercial or employment agreement, no principal purpose of which relates to Taxes; or (iii) that as of the Closing Date will be terminated without any further payments being required to be made.

(f) Within the past three (3) years, no Company Entity has been a “distributing corporation” or a “controlled corporation” in a distribution intended to qualify for tax-free treatment under Section 355 of the Code.

(g) No Company Entity has participated in any “listed transaction” as defined in Treasury Regulations Section 1.6011-4(b)(2) or Treasury Regulations Section 301.6111-2(b) in any Tax year for which the statute of limitations has not expired.

(h) There are no Liens for material Taxes on any of the assets of the Company Entities or the Company Stock, other than Permitted Liens.

(i) Each Company Entity has withheld and paid all material Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, equityholder or other third party, and has complied with all material reporting requirements relating thereto.

(j) No Company Entity is currently the subject of an audit, examination or other administrative or judicial proceeding relating to the payment of Taxes of any Company Entity by any Taxing Authority or has received any written notices from any Taxing Authority that such an audit, examination or other administrative or judicial proceeding is contemplated or pending.

(k) Within the past three (3) years, no Company Entity has received notice of any claim by a Taxing Authority in a jurisdiction where the Company Entity does not file Tax Returns claiming that the Company Entity may be subject to taxation by that jurisdiction.

(l) No Company Entity will be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) beginning after the Closing Date as a result of any: (i) change in method of accounting for a Taxable period ending prior to the Closing Date; (ii) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local, or non-U.S. Law) executed on or before the Closing Date; (iii) installment sale or open transaction disposition made on or prior to the Closing Date; (iv) intercompany transaction or excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local, or non-U.S. Law); (v) prepaid amount received or deferred revenue recorded on or before the Closing Date; (vi) election made (or contemplated to be made) under Section 108(i) of the Code; or (vii) election made (or contemplated to be made) under Section 965(h) of the Code (or any corresponding or similar provision of Law).

(m) No Company Entity has a permanent establishment outside of the country in which such entity is organized or incorporated.

(n) Each Company Entity (i) has not deferred the employer's share of any "applicable employment taxes" under Section 2302 of the PPP Law, (ii) has properly complied with and duly accounted for all credits received under Sections 7001 through 7005 of the Families First Coronavirus Response Act (Public Law 116-127) and Section 2301 of the PPP Law, (iii) has not sought, and does not intend to seek, a covered loan under paragraph (36) of Section 7(a) of the Small Business Act (15 U.S.C. 636(a)), as added by Section 1102 of the PPP Law, and (iv) has not filed any amended Tax Return or other claim for a Tax refund as a result of, or in connection with, the carry back of any net operating loss or other attribute to a year prior to the taxable year including the Closing Date under Section 172 of the Code, as amended by Section 2303 of the PPP Law (or any corresponding or similar provision of state, local or non-U.S. Law).

(o) Seller has provided Buyer with an analysis prepared by a nationally recognized independent accounting firm to establish (subject to the limitations and qualifications in such analysis) that, since the closing of the acquisition of the Company by Seller on August 28, 2014 (and disregarding the transactions contemplated under this Agreement), there has been no ownership change as defined in Section 382 of the Code with respect to any Company Entity.

### Section 3.8 Real Property.

(a) Section 3.8(a) of the Seller Disclosure Schedule sets forth a list of each parcel of property owned in fee (the "Owned Real Property") by the Company Entities, together with a list of all deeds of title (each an "Owned Real Property Agreement", collectively, the "Owned Real Property Agreements") for the Owned Real Property. The applicable Company Entity has a good and valid fee interest in all such Owned Real Property and there are no leases, tenancies, subleases, licenses, occupancies, co-tenancies or other rights of possession in effect, oral or written, related to, associated with such Owned Real Property.

(b) Section 3.8(b) of the Seller Disclosure Schedule sets forth a true and complete list of the Real Property Leases located on the Generation Sites. The applicable Company Entity has a good and valid leasehold interest in all Leased Real Property and there are no other leases, tenancies, subleases, licenses, occupancies, co-tenancies or other rights of possession in effect, oral or written, related to, associated with or concerning the Leased Real Property.

(c) The real property for which the Company Entities have an Easement interest is referred to collectively as the “Easement Property”. The applicable Company Entity has a good and valid easement interest in all such Easement Property, and other than the Easement Agreements, there are no other rights of possession in effect, oral or written, related to, associated with or concerning such Easement Property.

(d) The Owned Real Property, Leased Real Property and Easement Property are collectively the “Real Property.” The Owned Real Property Agreements, Real Property Leases and Easement Agreements are collectively the “Real Property Agreements”. The applicable Company Entity owns all Real Property free and clear of all Liens (except for Permitted Liens), and Seller has not received any written notice of, and does not otherwise have Knowledge of, any Condemnation proceedings with respect to any such Real Property as of the Effective Date. Except (A) for the rights of Buyer under this Agreement, (B) pursuant to any Material Contract, or (C) as set forth in a recorder’s office or applicable state equivalent, none of the Company Entities nor any of their respective Affiliates have granted any options, rights of first offer, rights of first refusal, in each case that are still effective, with respect to the sale, leasing or use of any portion of the Owned Real Property or any portion thereof or interests therein. To Seller’s Knowledge, all Real Property Agreements are valid, in full force and effect and effective against the applicable Company Entity and the counterparties thereto, in accordance with their respective terms, except for any invalidity, lack of being in full force and effect or ineffectiveness that would not, in the aggregate, have a Material Adverse Effect, taken as a whole. Seller has delivered to Buyer a true and accurate copy of each material Real Property Agreement and there are no understandings, oral or written, between the parties to such Real Property Agreement that in any manner varies the obligations or rights of either party thereunder.

(e) Except as set forth in the Real Property Agreements, there are no rents, royalties, payments (including option payments), fees or other amounts incurred, payable or receivable by any Company Entity in connection with any of the Real Property.

(f) No material improvements constituting a part of the Generation Sites encroach on real property owned or leased by another Person. All public and private utilities required for the operation of the Generation Sites either enter the Generation Sites through adjoining dedicated public streets or, if they pass through adjoining lands, do so in accordance with valid public or private Easements. The Real Property is sufficient to provide continuous, uninterrupted and, together with public roads, contiguous access to the Generation Sites sufficient for the construction, operation and maintenance of the Generation Sites and none of the Company Entities or Seller have received notice of any adverse claim to such access. The Real Property constitutes all of the Real Property used or held for use or necessary for the operation of the Business.

(g) The buildings, plants, and structures owned or leased by the Company Entities have been maintained in accordance with Good Utility Practice. The Company Entities have good and valid title to, or a valid leasehold interest in, all tangible personal property used in the Business (including equipment and vehicles), other than tangible personal property sold or otherwise disposed of in the ordinary course of business consistent with past practice since the Balance Sheet Date, and such tangible personal property (including leasehold interests) is free and clear of Liens (other than Permitted Liens). Such tangible personal property is in good condition and repair and sufficient for the conduct of the Business. Except as set forth in Section 3.8(g) of the Seller Disclosure Schedule, with respect to the Generation Sites, (i) no defect or condition of the Real Property exists that impairs the current use thereof by UPPCO; and (ii) no material portion of the Generation Sites includes improvements that are or will be located in an area that has been identified by the Federal Emergency Management Agency as an area having special flood or mudslide hazards, or by any other Governmental Authority as being an area with protected plant or animal species or archaeologic resources. The power generation assets located on the Generation Sites

(including the nameplate generation capacity of each power generation asset) are listed on Section 3.8(g) of the Seller Disclosure Schedule.

Section 3.9 Environmental Matters.

(a) Except as set forth on Section 3.9 of the Seller Disclosure Schedule:

(i) each Company Entity is, and since January 1, 2018, has been, in compliance with all Environmental Laws;

(ii) each Company Entity is and has at all times been in compliance with all Permits that are required for its operation of the Business as currently operated pursuant to Environmental Laws;

(iii) no Company Entity is obligated to Remediate or take any Remedial Action under any Environmental Laws;

(iv) no Company Entity nor any other Person for whose conduct any Company Entity is or may be held responsible has undertaken any treatment, storage, disposal or recycling of any Hazardous Substance, regardless of quantity, in violation of any Environmental Law except where such violation is not reasonably expected to result in a material liability;

(v) there is and has been no Release or, to the Knowledge of the Seller, no threat of Release of any Hazardous Substance to the environment at, on or under the Real Property in violation of any Environmental Law;

(vi) no Company Entity is party to any Governmental Order that remains unresolved or that imposes any continuing obligation under any Environmental Laws on any Company Entity;

(vii) no Company Entity has assumed and retained, either contractually or, to Seller's Knowledge, by operation of Law, any Liability under Environmental Law of any other Person;

(viii) no Company Entity has received any written communication or claim from a Governmental Authority that alleges (i) that a Company Entity is in violation of any Environmental Law or (ii) that any Company Entity is potentially responsible to Remediate any Hazardous Substances.

(b) To Seller's Knowledge, Seller has made available to Buyer complete copies of all final material environmental reports (including "Phase I" or "Phase II" Environmental Assessments or similar reports) and environmental compliance audit reports, prepared by or for each Company Entity which are in Seller or any Company Entity's possession or under their control.

Section 3.10 Contracts. Section 3.10 of the Seller Disclosure Schedule sets forth all Material Contracts to which any Company Entity is a party as of the Effective Date. True, complete and correct and fully executed copies of all Material Contracts have been made available to Buyer. Except as set forth on Section 3.10 of the Seller Disclosure Schedule, (a) Each Material Contract is in full force and effect and is the legal, valid and binding obligation of the Company Entity which is a party to such Material Contract (subject to the Remedies Exception) and, to the Knowledge of Seller, the other parties thereto; (b) no Company Entity nor, to the Knowledge of Seller, any of the other parties thereto is in breach,



violation or default, and, to the Knowledge of Seller, no event has occurred which with notice or lapse of time or both would constitute any such breach, violation or default, or permit termination, modification, or acceleration by such other parties, under such Material Contract, except that, in order to avoid a default, violation or breach under any Material Contract, the Consent of such other parties set forth in Section 3.2 of the Seller Disclosure Schedule may be required in connection with the Transactions; (c) no Company Entity has received written notice of any actual or alleged breach of, or default under, or any termination (or non-renewal) of any Material Contract; (d) no Company Entity has waived any material right under any Material Contract; and (e) no party to any Material Contract has notified a Company Entity that it intends to terminate or not to renew at the end of its term such Material Contract, materially increase rates, costs, or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract.

Section 3.11 Insurance. Section 3.11 of the Seller Disclosure Schedule sets forth a true and complete list of all insurance policies carried as of the Effective Date by or on behalf of the Company Entities that directly insure the businesses, assets, liabilities and operations of the Company Entities. Complete copies of all such insurance policies (including copies of all written amendments, supplements, waivers of rights and other modifications) have been provided to Buyer by Seller. All such insurance policies are in full force and effect, all premiums due and owing with respect thereto have been paid and, to the Knowledge of Seller, no notice of cancellation or termination has been received by any Company Entity with respect to any such policy, no such insurance policies are void or voidable, and no Company Entity nor any of their Affiliates is in material default with respect to any provision contained in such insurance. Except as disclosed on Section 3.11 of the Seller Disclosure Schedule (a) there are no claims pending under any such insurance policy that has been denied, rejected, questioned or disputed by any insurer or as to which any insurer has made any reservation of rights or refused to cover all or any portion of such claims and (b) no Company Entity has failed to give any notice or present any claims under any such insurance policy in accordance with the requirements of such insurance policies. No policy limits of the insurance policies have been exhausted or materially eroded or reduced and policies providing substantially similar insurance coverage have been in effect continuously for the past three (3) years. The Company Entities and their respective assets and properties are insured in amounts no less than as required by applicable Law and any Contact to which either Company Entity is a party.

Section 3.12 Litigation. Except as described in Section 3.12 of the Seller Disclosure Schedule, there are no material Actions pending or, to the Knowledge of Seller, threatened against any Company Entity. Except as set forth in Section 3.12 of the Seller Disclosure Schedule, there are no Condemnation or similar proceedings affecting any Company Entity or Asset that are currently pending or threatened in writing or otherwise. There is no Action pending or, to Seller's Knowledge, threatened against Seller, which either seeks a Governmental Order enjoining or otherwise prohibiting or making illegal the transactions contemplated by this Agreement or which would reasonably be expected to materially and adversely affect the ability of Seller to timely perform its obligations hereunder or to consummate the Transactions.

Section 3.13 Employee Matters.

(a) Section 3.13(a) of the Seller Disclosure Schedule contains a true and complete list of all material Employee Benefit Plans.

(b) Each Employee Benefit Plan has been maintained and administered in material compliance with its terms and the applicable requirements of ERISA, the Code and any other applicable laws. Each Employee Benefit Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter from the Internal Revenue Service or is the subject of a favorable opinion letter from the Internal Revenue Service on the form of such Employee Benefit Plan and, there are

no facts or circumstances that would be reasonably likely to adversely affect the qualified status of any such Employee Benefit Plan.

(c) Full payment has been timely made of all amounts which any of the Company Entities is required, under applicable law or under any Employee Benefit Plan or any agreement relating to any Employee Benefit Plan to which the Company or any of its subsidiaries is a party (including, without limitation, the Collective Bargaining Agreement), to have paid as contributions or premiums thereto as of the last day of the most recent fiscal year of such Employee Benefit Plan ended prior to the date hereof or have been timely reflected on the most recent consolidated balance sheet filed prior to the date hereof or accrued in the account records of the Company Entities, and such contributions or premiums have been timely deposited into the appropriate trusts or accounts. All such contributions and/or premiums have been fully deducted for income tax purposes and no such deduction has been challenged or disallowed by any governmental entity, and to the Knowledge of Seller, no event has occurred and no condition or circumstance has existed that could give rise to any such challenge or disallowance.

(d) Each Employee Benefit Plan which is a voluntary employees beneficiary association (“VEBA”) has been determined by the IRS to be exempt from federal tax under Section 501(c)(9) of the Code and nothing has occurred that could adversely affect the exempt status of any such VEBA. No Company Entity, nor to the Knowledge of Seller, any other “disqualified person” or “party in interest” (as defined in Section 4975(e)(2) of the Code and Section 3(14) of ERISA, respectively) has engaged in any transaction with respect to any Employee Benefit Plan that would be reasonably likely to subject the Company Entities, taken as a whole, to any material Tax or penalty (civil or otherwise) imposed by ERISA, the Code or other applicable law.

(e) Each Employee Benefit Plan which is a “nonqualified deferred compensation plan” (within the meaning of Section 409A of the Code) has at all relevant times been maintained, operated and administered in compliance with Section 409A of the Code and any proposed and final guidance under Section 409A of the Code.

(f) No liability, claim, action or litigation, has been made, commenced or, to the Knowledge of Seller, threatened against or with respect to any Employee Benefit Plan (other than routine claims for benefits payable in the ordinary course, and appeals of denied such claims), and no Employee Benefit Plan has within the three (3) years prior to the date hereof been the subject of an examination or audit by a Governmental Authority or the subject of an application or filing under, or is a participant in or considering being a participant in, an amnesty, voluntary compliance, self-correction, or similar program sponsored by any Governmental Authority (including the Employee Plans Compliance Resolution System, the Voluntary Fiduciary Correction Program, or the Delinquent Filers Voluntary Correction Program).

(g) Section 3.13(h) of the Seller Disclosure Schedules separately identifies each Employee Benefit Plan that is a “single-employer plan” within the meaning of Section 4001(a)(15) of ERISA. With respect to each such Employee Benefit Plan, as applicable, (i) no “reportable event” (as defined in Section 4043 of ERISA) has occurred, (ii) no action has been initiated by the Pension Benefit Guaranty Corporation to terminate any such Employee Benefit Plan or to appoint a trustee for any such Employee Benefit Plan, (iii) no such Employee Benefit Plan has failed to satisfy the minimum funding standards of Section 302 of ERISA or Sections 412 or 418(B) of the Code, respectively, or has applied for or obtained a waiver from the IRS of any minimum funding requirement or an extension of any amortization period under Section 412 of the Code or Sections 303 or 304 of ERISA, (iv) no such Employee Benefit Plan has been required to file information pursuant to Section 4010 of ERISA for the current or most recently completed fiscal year, and (v) the actuarial present value of the accumulated plan benefits (whether or not vested) under each such Employee Benefit Plan covered by Title IV of ERISA as of the close of its most recent plan year did not exceed the fair value of the assets allocable thereto and, since December 31,

2019, there has been (A) no material adverse change in the financial condition of any such Employee Benefit Plan, (B) no increase in benefits under any such Employee Benefit Plan as a result of plan amendments, written interpretations or announcements (whether written or not), which individually or in the aggregate, would result in the current value of any such Employee Benefit Plan's accrued benefits exceeding the current value of any such Employee Benefit Plan's assets. The Company Entities does not now have or at any time within the previous six (6) years contributed to, sponsored, or maintained any Multiemployer Plan or any "multiple employer plan" within the meaning of Section 413(c) of the Code. None of the Company Entities nor any ERISA Affiliate has incurred any withdrawal Liability under Title IV of ERISA to any Multiemployer Plan that remains unsatisfied.

(h) No ERISA Affiliate has taken any action or failed to take any action, which has resulted in or would reasonably be expected to result in the Company Entities becoming subject to Liability under Title IV of ERISA with respect to any Employee Benefit Plan subject to Title IV of ERISA (excluding, for the avoidance of doubt, any Liability resulting from the direct participation by the Company Entities).

(i) Except as set forth on Section 3.13(i) of the Seller Disclosure Schedules, neither the execution of this Agreement nor any of the transactions contemplated by this Agreement will (either alone or upon the occurrence of any additional or subsequent events): (i) entitle any current or former director, officer, employee, independent contractor, or consultant of any of the Company Entities to severance pay, any increase in severance pay, or any other payment; (ii) accelerate the time of payment, funding, or vesting, or increase the amount of compensation (including stock or stock-based compensation) due to any such individual; (iii) limit or restrict the right of any of the Company Entities to merge, amend, or terminate any Employee Benefit Plan; [REDACTED]

(j) Except as set forth on Section 3.13(j) of the Seller Disclosure Schedules and other than as required under ERISA Sections 601 to 608 or other applicable Law, no Employee Benefit Plan provides post-termination or retiree medical benefits to any individual for any reason, and no Company Entity has any Liability to provide post-termination or retiree medical benefits to any individual or ever represented, promised or contracted to any individual that such individual would be provided with post-termination or retiree medical benefits.

(k) Each Company Entity and each Employee Benefit Plan that is a "group health plan" as defined in Section 733(a)(1) of ERISA, (i) is currently in material compliance with the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 ("PPACA"), the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152 ("HCERA"), and all regulations and guidance issued thereunder (collectively, with PPACA and HCERA, the "Healthcare Reform Laws"), and (ii) has been in material compliance with all applicable times. No event has occurred, and no condition or circumstance exists, that could reasonably be expected to subject any Company Entity to material penalties or excise taxes under Sections 4980D, 4980H, 6721 or 6722 of the Code or any other provision of the Healthcare Reform Laws.

(l) With respect to each Employee Benefit Plan, Seller has made available to Buyer true, correct and complete copies, of (i) the plan, amendments, trust documents, and the most recent summary plan description, and any summaries of material modifications thereto, (ii) the most recent annual reports (Form 5500 series) filed with the U.S. Department of Labor, including all scheduled thereto, (iii) the

most recent financial statements, and (iv) the most recent Internal Revenue Service determination or opinion letter with respect to each Employee Benefit Plan intended to qualify under Section 401 of the Code, (v) the most recent actuarial reports or valuations (if applicable), (vi) all material and non-ordinary course correspondence with any Governmental Authority for the previous three (3) years, (vii) all material contracts and agreements relating to each Employee Benefit Plan.

(m) Section 3.13(m) of the Seller Disclosure Schedules sets forth a list of all Collective Bargaining Agreements. The Company Entities are not, and within the past three (3) years have not been, in violation in any material respect of any Collective Bargaining Agreement.

(n) The Company does not currently employ, and has not ever employed, any employee. The Company Entities are, and have been since January 1, 2018, in compliance in all material respects with all applicable Laws and Contracts relating to labor, employment, and employment practices to the extent they relate to the employees. Except as would not result in material Liability for the Company Entities, the Company Entities have (i) fully and timely paid all wages, salaries, wage premiums, commissions, bonuses, expense reimbursements, and any other compensation that have come due and payable to their current and former employees and other services providers under applicable Law, Contract or policies of any Company Entity; and (ii) properly classified and compensated all individuals who have provided services to any Company Entity as consultants, independent contractors, leased employees or in a similar non-employee capacity as nonemployees for all applicable purposes.

(o) There are no and within the past three (3) years there have been no pending or, to Seller's Knowledge, threatened strikes, work stoppages, pickets, work slow-downs or other material labor disputes involving the Company Entities. There are no pending, or, to Seller's Knowledge, threatened material (i) grievances or arbitrations against any Company Entity under any Collective Bargaining Agreement, or (ii) unfair labor practice charges or complaints, in either case, that involve any of the Company Entities.

(p) Within the past three (3) years, the Company Entities have not implemented any employee layoffs that implicated the WARN Act, and no such actions are currently contemplated, planned or announced.

Section 3.14 Legal Compliance. No Company Entity is, or for the past three (3) years has been, in material violation of any Law, Permit or license or other authorization or approval of any Governmental Authority applicable to its Business or operations. Neither Seller nor the Company Entities have received any written notice of any actual or potential material violation of any Law that has not been cured.

Section 3.15 Brokers' Fees. No broker, finder, investment banker, or other Person is entitled to any brokerage, finder's or other fee or commission from the Company Entities in connection with the Transactions for which the Company Entities or Buyer or its Affiliates would be responsible.

Section 3.16 Permits. Except as described on Section 3.16 of the Seller Disclosure Schedules, the Company Entities have all material Permits required to conduct the Business as currently conducted and operated on the Effective Date. Each such Permit of the Company Entities is in full force and effect and the applicable Company Entity is in compliance in all material respects with all its obligations with respect thereto. Each such Permit will continue in full force and effect after the Closing without regard to any change in ownership or control of the Company Entity to which each Permit has been issued. No Company Entity has received any written notification from any Governmental Authority alleging that it is in material violation of any such Permits.

Section 3.17 Energy Regulatory Matters.

(a) Seller and Company are each a public utility holding company under Public Utility Holding Company Act of 2005 (“PUHCA 2005”). UPPCO is a public utility as such term is defined under Section 201(e) of the FPA and under the applicable Laws of the State of Michigan. UPPCO is not a public utility, electric utility or gas utility, or similar utility designation, under the applicable Laws of any state other than the State of Michigan. The Company is not subject to regulation as a public utility as such term is defined under the applicable Laws of the State of Michigan.

(b) All filings (except for immaterial filings) required to be made by UPPCO since January 1, 2018, with the FERC and the MPSC, as the case may be, have been made, including all forms, statements, reports, agreements, documents, exhibits, amendments and supplements appertaining thereto, including all rates, tariffs and related documents, and all such filings complied, as of their respective dates, with all applicable requirements of applicable Law, except for filings the failure of which to make, or the failure of which to make in compliance with all applicable Law, would not be material to the Company Entities. There is no pending or anticipated Claim by or before any Governmental Authority, and since January 1, 2018, none of Seller or the Company Entities have received notice from any Government Entity alleging any failure by a Company Entity to comply with the FPA, PUHCA 2005, or applicable Laws of the State of Michigan regulating public utilities, except for such Claims or failures to comply with the FPA, PUHCA 2005, or applicable Laws of the State of Michigan regulating public utilities that would not be material to the Company Entities.

Section 3.18 Affiliate Contracts. Section 3.18 of the Seller Disclosure Schedule sets forth all Affiliate Contracts. Except as set forth on Section 3.18 of the Seller Disclosure Schedule, neither Seller nor any of Seller’s Affiliates (nor any corporation, partnership, trust or other entity in which any of the foregoing has a material interest, whether as an owner, officer, director, trustee or partner or otherwise, other than the Company Entities), has received, or is entitled to receive, any material compensation or payments from the Company Entities (other than dividends and distributions made in accordance with the Governing Documents of the Company Entities) or any Person that has engaged in or is engaging in any transaction with the Company Entities.

Section 3.19 Intellectual Property.

(a) Section 3.19(a) of the Seller’s Disclosure Schedule sets forth a list, as of the date of this Agreement, of all material Intellectual Property of the Company Entities.

(b) To the Knowledge of Seller, (i) the Company Entities own, or have the licenses or rights to use for the Business, all Intellectual Property currently used in the Business and (ii) no Person is violating any Intellectual Property owned by the Company Entities. To Seller’s Knowledge, (i) the conduct of the Business does not infringe on any Intellectual Property rights of any third party, (ii) the Company Entities and (iii) no third party is infringing any material Intellectual Property Right owned by any Company Entity.

(c) There is no claim by any third party pending, or, to Seller’s Knowledge, threatened in writing against the Company Entities alleging that the use or exploitation by the relevant Company Entity of any Intellectual Property rights is infringing any Intellectual Property rights of a third party in any material respect.

Section 3.20 Computer Systems. None of the Company Entities has experienced any material disruption to, or material interruption in, the conduct of the Business attributable to a defect, bug, breakdown, unauthorized access, introduction of a virus or other malicious programming, or other failure

or deficiency on the part of any Software, Company Systems or technology used by such Company Entity. The Company Systems are reasonably sufficient for the needs of the Business as currently conducted and as proposed to be conducted, including as to capacity, scalability and ability to process current and anticipated peak volumes in a timely manner. The Company Entities use commercially reasonable efforts to protect the Company Systems from becoming infected by viruses and other malicious code (including what are sometimes referred to as “viruses”, “worms”, “time bombs” or “back doors”), as well as to detect and protect against destructive cyber-attacks and unauthorized attempts to access, acquire, impair, or destroy data, systems, facilities, or information. The Company Systems have had no material errors or defects that have not been fully remedied and contain no viruses or other malicious code designed to disrupt, disable, harm distort or otherwise impede in any manner the legitimate operation of such Company Systems that has not been removed or fully remedied. The Company Entities have taken commercially reasonable steps to provide for the security, continuity and integrity of the Company Systems and the back-up and recovery of data and information stored or contained therein or accessed or processed thereby and to guard against any unauthorized access or use thereof. To the Knowledge of Seller, there have not been any unauthorized intrusions or breaches of the security of any of the Company Systems or any unauthorized access or use of any of the data or information stored or contained therein or access or processed thereby or that has resulted in the destruction, damage, loss, corruption, alteration or misuse of any such data, facilities, or information. The Company Entities maintain commercially reasonable security, disaster recovery and business continuity plans, procedures and facilities in connection with the Business as presently conducted and act in compliance therewith.

Section 3.21 Data Privacy. Each Company Entity has complied with all applicable Laws, all Contracts and all fiduciary obligations relating to the protection and security of Personal Data to which the Seller is currently or was then subject. None of the Company Entities has received any written inquiries from or been subject to any audit or Action by any Governmental Authority, regarding its compliance with the foregoing. UPPCO has established policies, programs, procedures and contractual obligations with third parties with respect to the collection, use, processing, storage and transfer of all Personal Data in connection with the Business consistent and compliant with applicable Law relating to privacy and data protection. Each Company Entity has complied with all rules, policies and procedures established by such Company Entity from time to time with respect to privacy, publicity, data protection or collection and use of personal information and user information gathered or accessed in the course of the operations of such Company Entity. Except as set forth in Section 3.21 of the Seller Disclosure Schedule, no Company Entity transfers, or has transferred, any Personal Data collected, processed or stored by such Company Entity to a third-party vendor or supplier of such Company Entity. No Action alleging (a) a violation of any Person’s privacy, personal or confidentiality rights under any such rules, policies or procedures or (b) any breach, misappropriation, or unauthorized disclosure, access, use or dissemination of any Personal Data has been asserted or, to the Knowledge of Seller, threatened against such Company Entity by any Person. There has not been (i) a violation of any Person’s privacy, personal or confidentiality rights under any such rules, policies or procedures or (ii) any breach, misappropriation, or unauthorized disclosure, access, use or dissemination of any Personal Data. Each Company Entity has at all times taken all steps reasonably necessary (including implementing and monitoring compliance with adequate measures with respect to technical and physical security) to reasonably ensure that any Personal Data collected by such Company Entity is protected against loss and against unauthorized access, use, modification, disclosure or other misuse.

Section 3.22 Payment Protection Program.

(a) All representations, warranties, authorizations, and certifications provided by UPPCO to any Governmental Authority in connection with the PPP Loan, including in any PPP Loan Document and any other form submitted to the PPP Lender or the SBA, were true and accurate as of the date such representations, warranties, authorizations, and certifications were made.

(b) UPPCO has used all proceeds of the PPP Loan solely for the allowable uses under the PPP Law.

(c) UPPCO is not in default in any material respect under the terms of the PPP Loan Documents.

Section 3.23 Bank Accounts. Section 3.23 of the Seller Disclosure Schedule sets forth a complete and correct list setting forth the name of each bank in which each Company Entity has an account, lock box, safe deposit box or borrowing privileges and the names of all Persons authorized to withdraw any funds from any such account or lock box, to have access to any such account, lock box or safe deposit box or to borrow therefrom, as the case may be.

Section 3.24 Accounts Receivable. The accounts receivable reflected on the Interim Balance Sheets and the accounts receivable arising after the date thereof (a) have arisen from bona fide transactions entered into by the Company Entities involving the sale of services or goods or the rendering of services in the ordinary course of Business consistent with past practice; (b) constitute only valid, undisputed claims of the Company Entities; and (c) subject to a reserve for bad debts shown on the Interim Balance Sheets or, with respect to accounts receivable arising after the Balance Sheet Date, on the book and records of the Company Entities, are anticipated to be collectible in full. The reserve for bad debts shown on the Interim Balance Sheets or, with respect to accounts receivable arising after the Balance Sheet Date, on the books and records of the Company Entities, have been determined in accordance with GAAP, consistently applied, subject to normal year-end adjustments and the absence of disclosures normally made in footnotes.

## ARTICLE IV

### REPRESENTATIONS AND WARRANTIES REGARDING SELLER

Seller represents and warrants to Buyer, except as set forth in the Seller Disclosure Schedule, that the statements contained in this ARTICLE IV are true and correct as of the Effective Date and the Closing Date:

Section 4.1 Organization. Seller is a limited partnership duly organized, validly existing and in good standing under the Laws of Delaware. Seller has all requisite power and authority to own the Company Stock.

Section 4.2 Authorization. Seller has all requisite limited partnership power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the Transactions. The execution, delivery and performance by Seller of this Agreement and such other Transaction Documents, the performance by Seller of its obligations hereunder and thereunder and the consummation of the Transactions have been duly authorized by all necessary limited partnership action on the part of Seller. This Agreement has been duly executed and delivered by Seller and constitutes a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms (subject to the Remedies Exception).

Section 4.3 Non-Contravention. The execution, delivery or performance by Seller of this Agreement, the other Transaction Documents to which it is or will be a party, the consummation by Seller of the Transactions does not and will not:

(a) conflict with or result in any breach of any provision of the Governing Documents of Seller,

(b) assuming receipt of (i) the Consents specified in Section 3.2, and (ii) the Required Governmental Approvals, violate any Law to which Seller is subject, except for such violations as would not (A) materially and adversely affect the ability of Seller to perform its obligations under this Agreement, (B) have a Material Adverse Effect, or (C) prevent or materially delay the consummation of the Transactions,

(c) violate, constitute or result in a breach or default (or an event that with notice or passage of time or both would violate or give rise to a breach or default) under, or give rise to any right of termination, cancellation, amendment, acceleration, approval or consent (with or without the giving of notice or the passage of time or both), or any right of notice, under any of the terms, conditions or provisions of any Contract to which Seller is a party or by which any property or Asset of Seller is bound or affected, except for such violations or breaches as would not materially and adversely affect the ability of Seller to perform its obligations under this Agreement, or

(d) result in the imposition or creation of any Lien on the Company Stock other than Liens arising under the Debt Agreements, the Governing Documents of the Company Entities and applicable securities Laws.

Section 4.4 Title to Company Stock. Seller is the direct owner, holder of record and beneficial owner of, and has valid title to, 100% of the issued and outstanding Company Stock, free and clear of all Liens or restrictions on transfer other than Liens arising under the Debt Agreements, the Governing Documents of the Company Entities and applicable securities Laws. The Company Stock was duly authorized and validly issued.

Section 4.5 Litigation. In each case, as of the Effective Date, there are no Actions pending or, threatened in law or in equity or before any Governmental Authority against Seller which would prevent or materially delay the consummation of the Transactions or have a material adverse impact on the ability of Seller to perform its obligations under this Agreement. To Seller's Knowledge, no Action is threatened against Seller that (a) seeks a Governmental Order restraining, enjoining or otherwise prohibiting or making illegal any of the Transactions, or (b) would, individually or in aggregate, reasonably be expected to prevent, materially delay or materially and adversely affect Seller's ability to consummate the Transactions. Other than Permits, there are no outstanding Governmental Orders to which Seller is a party or by which it is bound by or with any Governmental Authority which would have a material adverse impact on the ability of Seller to perform its obligations under this Agreement.

Section 4.6 Brokers' Fees. No broker, finder, investment banker, or other Person is entitled to any brokerage, finder's or other fee or commission from Seller or its Affiliates in connection with the Transactions for which the Company Entities or Buyer or its Affiliates would be responsible.

Section 4.7 OFAC and Anti-Corruption Laws.

(a) Neither Seller nor any of its Subsidiaries (i) is the target of any Sanctions, (ii) is or is owned 50% or more or controlled by, a Sanctioned Person or Sanctioned Entity, (iii) is located, organized or resident in a country or territory that is, or whose government is, a Sanctioned Entity, or (iv) engages in any dealings or transactions, or is or will be otherwise associated, with any such Sanctioned Person or Sanctioned Entity in violation of any Sanctions.



(b) Neither Seller nor any of its Subsidiaries (i) is listed on the Entity List, Unverified List, or Denied Parties List maintained by the U.S. Department of Commerce (collectively, the “Restricted Parties Lists”), or (ii) engages in any dealings or transactions, or is or will be otherwise associated, with any Person on one or more of the foregoing lists unless authorized by the EAR.

(c) Seller and its Subsidiaries have conducted their business in compliance in all material respects with all Anti-Corruption Laws applicable to such Persons.

(d) Neither Seller nor any of its Subsidiaries is the subject of any investigation, inquiry or enforcement proceedings by any Governmental Authority regarding any offense or alleged offense under any anti-terrorism or Anti-Corruption Laws or Sanctions, and no such investigation, inquiry or proceeding is pending or, to the Knowledge of Seller, has been threatened in writing.

Section 4.8 Disclaimer. Except for the representations and warranties contained in ARTICLE III and this ARTICLE IV (including the Seller Disclosure Schedule) and Section 6.17, neither Seller nor any of the Company Entities nor any of their respective Representatives, nor any other Person, has made or shall be deemed to have made any representation or warranty to Buyer, express or implied, at law or in equity, with respect to Seller or the Company Entities, or any of Seller’s or the Company Entities’ respective businesses, assets, liabilities, operations, prospects, or condition (financial or otherwise) or the execution and delivery of this Agreement or the Transactions, including as to merchantability or fitness for any particular purpose of any assets, the nature or extent of any liabilities, the prospects of, or the effectiveness or the success of any operations of, the Business, or the accuracy or completeness of any information, documents, materials, projections, forecasts, statements or opinions regarding Seller or the Company Entities, made available or communicated to Buyer, orally or in writing, in any “data rooms,” “virtual data rooms,” management presentations or in any other form in expectation of, or in connection with, the Transactions or in respect of any other matter or thing whatsoever, or any errors therein or omissions therefrom (“Evaluation Material”). Except for the representations and warranties contained in ARTICLE III and this ARTICLE IV (including the Seller Disclosure Schedule), Seller hereby disclaims any such representations or warranties and any and all liability that may be based on such Evaluation Material. Except for the representations and warranties contained in ARTICLE III and this ARTICLE IV (including the Seller Disclosure Schedule), neither Seller nor any of the Company Entities nor any of their respective Representatives, nor any other Person, make any representations or warranties to Buyer regarding the probable success or profitability of the Company Entities. This Section 4.8 shall in no way limit Buyer’s rights or remedies in the event of Fraud.

## **ARTICLE V**

### **REPRESENTATIONS AND WARRANTIES REGARDING BUYER**

Buyer represents and warrants to Seller that the statements contained in this ARTICLE V are true and correct as of the Effective Date and the Closing Date:

Section 5.1 Organization. Buyer is a limited liability company, duly organized, validly existing and in good standing under the laws of Delaware.

Section 5.2 Authorization. Buyer has all requisite limited liability company power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is or will be a party, to perform its obligations hereunder and thereunder and to consummate the Transactions. The execution, delivery and performance by Buyer of this Agreement and such other Transaction Documents and the consummation of the Transactions have been duly authorized by all necessary limited liability company action on the part of Buyer. This Agreement has been duly executed and delivered by

Buyer and constitutes a legal, valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms (subject to the Remedies Exception).

Section 5.3 Non-Contravention. Assuming the accuracy of the representations and warranties of Seller set forth in Section 4.3, neither the execution and delivery by Buyer of this Agreement or the other Transaction Documents to which it is or will be a party, nor the consummation by Buyer of the Transactions (a) conflicts with any provision of the Governing Documents of Buyer, or (b) violates or results in a breach of any material agreement, contract, lease, license, instrument or other arrangement to which Buyer or any of its Subsidiaries is a party or by which any of their respective properties are bound in any material respect or (c) assuming receipt of the Consents described in Section 5.4 below, violates, in any material respect, any Law to which Buyer or any of its Subsidiaries is subject, except, in the case of clauses (b) and (c), for such violations or breaches as would not have a material adverse impact on the ability of Buyer to perform its obligations under this Agreement.

Section 5.4 Government Authorizations.

(a) Assuming the accuracy of the representations and warranties of Seller set forth in Section 4.3, no Consent of, with or to any Governmental Authority is required to be obtained or made by or with respect to Buyer in connection with the execution and delivery of this Agreement and the other Transaction Documents by Buyer or the consummation by Buyer of the Transactions, except for the Required Governmental Approvals, and Consents not required to be made or given until after Closing.

Section 5.5 Financial Capacity.

(a) Buyer (i) will have available at the Closing and after the Closing, as applicable, funds sufficient to pay the Closing Consideration and the other amounts due to be paid or deposited by Buyer at the Closing in accordance with Section 2.5 and pay any fees and expenses contemplated to be paid by Buyer under this Agreement on the Closing Date, (ii) has, and at the Closing will have, the resources and capabilities (financial or otherwise) to perform its obligations hereunder, and (iii) has not incurred any obligation, commitment, restriction or liability of any kind, which would materially impair or adversely affect such resources and capabilities.

(b) Buyer acknowledges and agrees that it is not a condition to the Closing or to any of the other obligations under this Agreement that Buyer obtains financing for or relating to the Transactions.

(c)

[REDACTED]

The Buyer Guaranty is a legal, valid and binding obligation of the Guarantors, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantors. The Buyer Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Buyer Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Buyer Guaranty. Seller is an express third party beneficiary thereof and is entitled to enforce, directly or indirectly, the Buyer Guaranty in accordance with its terms against the Guarantors.

(d) Buyer has delivered to Seller true, correct and complete copies of (i) an executed equity commitment letter from the Guarantors, pursuant to which, and subject to the terms and conditions of which, the Guarantors have agreed to provide equity financing ("Equity Financing") to Buyer in

connection with the transaction contemplated herein (the “Equity Commitment”), and (ii) an executed, binding debt commitment letter, together with any fee letters (redacted with respect to fee amounts and all other economic terms that do not impact the conditionality or amount of funding under the Debt Commitment only), or any other letter agreements or exhibits in connection therewith (the “Debt Commitment,” and together with the Equity Commitment, the “Financing Commitments”) from the Lenders pursuant to which, and subject to the terms and conditions of which, the Lenders have committed to provide loans to, purchase notes or other debt securities issued by, and/or provide other financing to, Buyer (or any of its Affiliates, including the Company Entities in connection with, and subject to the occurrence of, the Closing) for the purposes of financing the Transactions, related fees and expenses to be incurred by Buyer (or its applicable Affiliate) in connection therewith and for the other purposes set forth therein (the “Debt Financing” and, together with the Equity Financing, the “Financing”). Each of the Financing Commitments is a legal, valid and binding obligation of Buyer and, to the Knowledge of Buyer, the other parties thereto. Each of the Financing Commitments is in full force and effect, and none of the Financing Commitments has been withdrawn, rescinded or terminated or otherwise amended or modified in any respect, and no such amendment, rescission, termination or modification is contemplated. As of the Effective Date and assuming the accuracy and completeness of all of the representations and warranties of Seller in this Agreement and in any other agreement, document, instrument or certificate executed by Seller and delivered in accordance with this Agreement (x) Buyer and, to the Knowledge of Buyer, the other parties to the Financing Commitments, are not in breach of any of the terms or conditions set forth in any of the Financing Commitments and (y) no event has occurred which, with or without notice, lapse of time or both, (A) could reasonably be expected to constitute a breach or default of any Financing Commitment by Buyer or a failure by Buyer to satisfy any condition precedent set forth therein, (B) to the Knowledge of Buyer, could reasonably be expected to constitute a breach or default of any Financing Commitment by the other parties to the Financing Commitments or a failure by the other parties to the Financing Commitments to satisfy any condition precedent set forth therein, or (C) to the Knowledge of Buyer, could reasonably be expected to prevent or materially delay the Closing; *provided, however*, Buyer is not making any representation or warranty regarding the compliance of Seller under this Agreement. As of the Effective Date and assuming the accuracy and completeness of all of the representations and warranties of Seller in this Agreement and in any other agreement, document, instrument or certificate executed by Seller and delivered in accordance with this Agreement, and assuming the compliance by Seller with all of such Party’s covenants and obligations set forth in this Agreement, Buyer has no reason to believe that any of the conditions in the Financing Commitments will not be satisfied, or that the Financing will not be made available on a timely basis in order to consummate the Transactions. As of the Effective Date, no Lender has notified Buyer of its intention to terminate, withdraw or rescind any of the Financing Commitments or not to provide the Financing. The net proceeds from the Financing, when funded in accordance with the Financing Commitments, will be sufficient for Buyer to consummate the Transactions and to pay the Closing Consideration and the other amounts due to be paid or deposited by Buyer at the Closing in accordance with Section 2.5 and to pay any fees and expenses contemplated to be paid by Buyer under this Agreement on the Closing Date. Buyer has paid in full, or caused to be paid in full, any and all commitment, arrangement or other fees required by the Financing Commitments that are due as of the Effective Date and will pay (or cause to be paid), after the Effective Date, all such fees as they become due. As of the Effective Date, there are no side letters, understandings or other agreements or arrangements relating to the Financing to which Buyer, the Guarantors or any of their Affiliates is a party including any that could (x) impose any new or additional or more restrictive condition precedent to the funding of such Financing, (y) result in any delay in the funding of such Financing or (z) result in any reduction to the aggregate amount available under the Financing Commitments on the Closing Date, in each case, other than the Financing Commitments. There are no conditions precedent or other contingencies related to the funding of the full amount of the Debt Financing or Equity Financing other than as expressly set forth in this Agreement or the unredacted portion of the Financing Commitments. No Person has any right to impose, and none of the Guarantors, any Lender or Buyer has any obligation to accept, any condition precedent to such funding, any right to delay such funding or any reduction to the aggregate amount available under the Financing Commitments

on the Closing Date (or any term or condition which would have the effect of reducing (below an amount sufficient for Buyer to consummate the Transactions) or delaying the aggregate amount available under the Financing Commitments on the Closing Date or that could adversely affect the availability of the Financing Commitments) other than as set forth in this Agreement or the unredacted portion of the Financing Commitments.

Section 5.6 Investment. Buyer is aware that the Company Stock being acquired by Buyer pursuant to the Transactions have not been registered under the Securities Act or under any state securities Laws. Buyer is not an underwriter, as such term is defined under the Securities Act, and Buyer is purchasing the Company Stock solely for investment and not with a view toward, or for sale in connection with, any distribution thereof within the meaning of the Securities Act, nor with any present intention of distributing or selling any of the Company Stock. Buyer and its Affiliates acknowledge that none of them may sell or otherwise dispose of the Company Stock except in compliance with the registration requirements or exemption provisions under the Securities Act and the rules and regulations promulgated thereunder, or any other applicable securities Laws. Buyer is an “accredited investor” as defined under Rule 501 promulgated under the Securities Act.

Section 5.7 Litigation. There are no Actions pending or, to the Knowledge of Buyer, threatened in law or in equity or before any Governmental Authority against Buyer that would have a material adverse impact on the ability of Buyer to perform its obligations under this Agreement, and there are no outstanding Governmental Orders to which Buyer is a party or by which it is bound by or with any Governmental Authority which would have a material adverse impact on the ability of Buyer to perform its obligations under this Agreement.

Section 5.8 Brokers’ Fees. No broker, finder, investment banker, or other Person is entitled to any brokerage, finder’s or other fee or commission from Buyer or its Affiliates in connection with the Transactions for which the Company Entities or Seller or its Affiliates would be responsible.

Section 5.9 Solvency. As of the Closing Date and immediately after giving effect to all of the Transactions, including the payment by Buyer of the Closing Consideration and the other amounts due to be paid or deposited by Buyer at the Closing in accordance with Section 2.5 and payment by Buyer of any fees and expenses contemplated to be paid by Buyer under this Agreement on the Closing Date, Buyer will be able to pay its respective liabilities, including contingent and other liabilities, as they mature. For purposes of the foregoing, “able to pay its liabilities, including contingent and other liabilities, as they mature” means that Buyer will be able to generate enough cash from operations, asset dispositions or refinancing, or a combination thereof, to meet its obligations as they become due. In completing the Transactions, Buyer does not intend to hinder, delay or defraud any present or future creditors of Buyer or the Company Entities.

Section 5.10 No Conflicting Contracts. Neither Buyer nor any of its Affiliates is a party to any Contract to build, develop, acquire or operate any electric generating assets, electric transmission assets or electric distribution assets that would reasonably be expected to cause a material delay in the granting of any Governmental Approval required for the consummation of the Transactions, and neither Buyer nor any of its Affiliates has any plans to enter into any such Contract prior to the Closing Date.

Section 5.11 OFAC and Anti-Corruption Laws.

(a) None of Buyer or its Subsidiaries (i) is the target of any Sanctions, (ii) is or is owned or controlled by, a Sanctioned Person or Sanctioned Entity, (iii) is located, organized or resident in a country or territory that is, or whose government is, a Sanctioned Entity, or (iv) engages in any dealings

or transactions, or is or will be otherwise associated, with any such Sanctioned Person or Sanctioned Entity in violation of any Sanctions.

(b) None of Buyer or its Subsidiaries (i) is listed on any of the Restricted Parties Lists, or (ii) engages in any dealings or transactions with any Person on one or more of the foregoing lists unless authorized by applicable Law or Governmental Authority.

(c) Buyer and each of its Subsidiaries have conducted their business in compliance in all material respects with all Anti-Corruption Laws applicable to such Persons.

(d) To the Knowledge of Buyer, neither Buyer nor any of its Subsidiaries is the subject of any investigation, inquiry or enforcement proceedings by any Governmental Authority regarding any offense or alleged offense under any anti-terrorism or Anti-Corruption Laws or Sanctions, and no such investigation, inquiry or proceeding is pending or, to the Knowledge of Buyer, has been threatened in writing.

**Section 5.12 Buyer's Due Diligence; Limitations on Representations and Warranties of Seller.** Buyer hereby acknowledges and agrees that, except for the representations and warranties of Seller expressly set forth in ARTICLE III and ARTICLE IV and Section 6.17, Buyer is relying on its own investigation and analysis in entering into this Agreement and the Transactions. Buyer is an informed and sophisticated participant in the Transactions and has undertaken such investigation, and has been provided with and has evaluated such Evaluation Material, as it has deemed necessary in connection with the execution, delivery and performance of this Agreement and the consummation of the Transactions. Buyer acknowledges and agrees that it is consummating the Transactions without any representation or warranty, express or implied, by Seller, the Company Entities or any of their respective Representatives, or any other Person, except as expressly set forth in ARTICLE III and ARTICLE IV and Section 6.17 or any certificate delivered pursuant to Section 7.3 and have not relied on any other representation or warranty or any Evaluation Material. With respect to any projection or forecast delivered by or on behalf of Seller or the Company Entities to Buyer, Buyer hereby acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and forecasts, (b) the accuracy and correctness of such projections and forecasts may be affected by information which may become available through discovery or otherwise after the date of such projections and forecasts and (c) it is familiar with each of the foregoing. In furtherance of the foregoing, and not in limitation thereof, Buyer acknowledges and agrees that no representation or warranty, express or implied, at law or in equity, of Seller, the Company Entities or any of their respective Representatives, or any other Person, including the Evaluation Material and any financial projection or forecast delivered to Buyer with respect to the revenues or profitability which may arise from the operation of the Company Entities either before or after the Closing Date, shall (except as otherwise expressly set forth in this Agreement) form the basis of any claim against Seller or any of its Subsidiaries or any of their respective Representatives, or any other Person with respect thereto or with respect to any related matter. Buyer is acquiring the Company Stock subject only to the specific representations and warranties set forth in ARTICLE III and ARTICLE IV or any certificate delivered pursuant to Section 7.3 of this Agreement (as qualified by the Seller Disclosure Schedule). This Section 5.12 shall in no way limit Buyer's rights or remedies in the event of Fraud by Seller.

## **ARTICLE VI**

### **COVENANTS**

Section 6.1 Conduct of Business Prior to the Closing.

(a) Seller hereby covenants and agrees that, after the Effective Date and prior to the earlier of the Closing or the termination of this Agreement pursuant to its terms (the “Pre-Closing Period”), unless otherwise required or permitted by this Agreement (including as described on Section 6.1 of the Seller Disclosure Schedule) and the other Transaction Documents or consented to by Buyer in writing (which consent shall not be unreasonably withheld, conditioned or delayed), or as may be required by Law, it will cause each of the Company Entities to (a) operate its Business in the ordinary course and substantially as operated prior to the date of this Agreement consistent with past practice, (b) use commercially reasonable efforts to preserve the goodwill of Seller and the Company Entities and relationship with all suppliers, contractors, Governmental Authorities, licensors, customers, distributors and others having business relations with the Company Entities, (c) maintain all the material physical assets of the Company Entities, whether owned or leased, in accordance with Good Utility Practice, in reasonable condition and repair, (d) maintain insurance upon all the Company Entities’ assets consistent with the insurance policies described in Section 3.11 of the Seller Disclosure Schedule sufficient to adequately cover the risk associated with the operation of the Business consistent with Good Utility Practice and (e) use commercially reasonable efforts to maintain in full force and effect all material Permits of the Company Entities.

(b) Seller hereby covenants and agrees that, during the Pre-Closing Period, unless otherwise required or permitted by this Agreement (including as described on Section 6.1 of the Seller Disclosure Schedule) and the other Transaction Documents or consented to by Buyer in writing (which consent shall not be unreasonably withheld, conditioned or delayed), or as may be required by Law, it will not, and will cause each of the Company Entities not to:

(i) amend or otherwise change its Governing Documents (except for immaterial or ministerial amendments);

(ii) issue, sell, pledge, dispose of, grant or encumber, or authorize the issuance, sale, pledge, disposition, grant or encumbrance of any equity interests in the Company Entities, including the Company Stock;

(iii) reclassify, combine, split, subdivide or redeem, or purchase or otherwise acquire, directly or indirectly, any of the equity interests in the Company Entities;

(iv) acquire (including by merger, consolidation, or acquisition of a material amount of stock or assets or any other business combination) any Person except for any acquisition for consideration that is individually not in excess of [REDACTED]

(v) fail to maintain the existence of any Company Entity, or merge or consolidate any Company Entity with any other Person;

(vi) pay or make any non-cash distribution to Seller or its Affiliates;

(vii) cancel or materially reduce coverage under any insurance policy (other than where such change is necessary because existing coverage is no longer available on commercially reasonable terms);

(viii) adopt a plan or agreement of complete or partial liquidation, dissolution, merger, consolidation, restructuring, recapitalization or other material reorganization;

(ix) engage in any material new line of business;

(x) settle, compromise or discharge any pending or threatened Action, except for (A) settlements, compromises or discharges in the ordinary course of business that would not be material to the Business or (B) settlements, compromises or discharges that, (1) with regard to monetary damages, the amount payable by the Company Entities in connection therewith would not exceed an amount equal to (x) the amount with respect thereto reflected on the Financial Statements (including the notes thereto) or (y) [REDACTED] in excess of the proceeds received from any insurance policies in connection with such payment or (2) with regard to any nonmonetary terms and conditions thereof, would not be reasonably likely to be material to the post-Closing operations of the business of the Company Entities;

(xi) cancel any material third party Indebtedness owed to the Company Entities;

(xii) change or rescind any material election relating to Taxes, amend any material Tax Return, enter any closing agreement relating to Taxes, settle or compromise any material Tax liability, agree to an extension or waiver of the statute of limitations with respect to the assessment of or determination of a material amount of Taxes, or surrender any right to claim a material Tax refund or other reduction of Taxes, make any change to any of its methods of accounting or methods of reporting income or deductions for Tax or accounting practice or policy from those employed in the preparation of its most recent Tax Return, in each case, solely to the extent such action would be reasonably expected to adversely affect the Taxes or Tax positions of any Company Entity after the Closing;

(xiii) sell, assign, license, lease, convey, distribute, transfer or otherwise dispose of, or encumber, allow to suffer to be encumbered or subjected to any Lien (other than Permitted Liens) any material properties or Assets, except in the ordinary course of business and except for sales of obsolete assets;

(xiv) enter into, assign, amend, grant any material waiver under, or voluntarily terminate (other than in connection with the exercise of remedies), any Material Contract (or any Contract that, if it had been in effect on the Effective Date, would have been a Material Contract) other than (A) in the ordinary course of business, (B) renewals or extensions in accordance with and consistent with the terms thereof or (C) ministerial amendments that are not adverse to it;

(xv) create, incur, assume or guaranty any Indebtedness for borrowed money, except (A) Indebtedness incurred in the ordinary course of business, (B) Indebtedness as reasonably necessary to finance any capital expenditures permitted under this Agreement, (C) Indebtedness in replacement of existing Indebtedness, (D) borrowings under the Debt Agreements, (E) intercompany Indebtedness among the Company Entities, or (F) Indebtedness in amounts necessary to maintain the capital structure of each Company Entity, as authorized by the MPSC, or as otherwise consistent with past practice in all material respects; *provided*, that the Company Entities may not create, incur, assume or guaranty any Indebtedness under the PPP Law (or any similar Law enacted after the date hereof), other than the existing Indebtedness under the PPP Loan, unless consented to by Buyer in writing;

(xvi) except as required to comply with applicable Laws or any Contract or Employee Benefit Plan in effect on the date hereof, (A)(1) pay to any Employee, officer or director any benefit not provided for under any Contract or Employee Benefit Plan in effect on the date hereof or (2) grant any awards under any Employee Benefit Plan, in each case, except for increases

and adjustments in compensation and payment of bonus and incentive compensation in the ordinary course of business consistent with past practice, (B) take any action to fund or in any other way secure the payment of compensation or benefits under any Contract or Employee Benefit Plan (C) take any action to accelerate the vesting or payment of any compensation or benefit under any Contract or Employee Benefit Plan, (D) adopt, enter into, amend or terminate any Employee Benefit Plan, other than offer letters entered into with new Employees in the ordinary course of business consistent with past practices that provide, except as required by applicable Laws, for “at will employment” with no severance benefits, or (E) make any material determination under any Employee Benefit Plan that is inconsistent with the ordinary course of business or past practice;

(xvii) implement any employee layoffs, furloughs, hours reductions, or similar actions that are outside of the ordinary course of business or that would require notice under the WARN Act;

(xviii) seek to amend any Governmental Approvals, unless such amendment is non-material;

(xix) change any method of accounting of either Company Entity, except as required by applicable Law or GAAP;

(xx) make or incur capital expenditures in excess of [REDACTED] [REDACTED] with respect to the hydroelectric generation facilities owned by UPPCO that are not included in UPPCO’s regulated rate base; or

(xxi) agree, commit or enter into any Contract to do any of the foregoing.

(c) Nothing in this Agreement is intended to give Buyer, directly or indirectly, the right to control or direct the business or operations of the Company Entities at any time prior to the Closing.

(d) Notwithstanding anything to the contrary herein, the Company Entities may take actions reasonably required to preserve the business or operations of the Company Entities, avoid or mitigate an immediate risk of damage to physical property or the environment or safeguard the health of natural Persons under emergency circumstances, including with respect to (i) any operational emergencies (including any restoration measures in response to any hurricane, tornado, tsunami, flood, earthquake, snow storm, ice storm or other natural or manmade disaster or weather-related event, circumstance or development), equipment failures or outages and (ii) any COVID-19 Measure.

(e) During the Pre-Closing Period, subject to Section 6.1(d), Seller shall cause the Company Entities to use commercially reasonable efforts to perform and execute the Forecasted Capital Expenditures in a commercially reasonable manner and consistent with past practice. Seller shall, and shall cause the Company Entities to, keep Buyer reasonably informed on the status of and then-current expenditures on Forecasted Capital Expenditures and shall provide such other information related to Capital Expenditures as Buyer may reasonably request from time to time.

(f) During the Pre-Closing Period, unless the Existing Debt Election has been timely made, Seller may, in coordination with Buyer, seek to arrange Buyer’s payment, on behalf of the Company, at Closing of the amounts (including any Make-Whole Amount) owed to each Purchaser (as defined in the Note Purchase Agreement) as of the Closing under the Note Purchase Agreement; *provided*, that Seller shall not have authority to bind or otherwise commit Buyer to such payment without Buyer’s prior written consent.



Section 6.2      Access to Information.

From and after the Effective Date until the earlier of the Closing Date or the termination of this Agreement in accordance with its terms, Seller shall, upon reasonable prior notice, arrange to provide to Buyer and its Representatives, at Buyer's expense and during normal business hours, reasonable access to the books and records and properties of the Company Entities; *provided*, that Buyer agrees to indemnify and hold harmless Seller, its Affiliates and its and their respective Representatives for any and all Losses incurred by Seller, its Affiliates or its or their Representatives to the extent arising out of any physical property damage, personal injury, bodily injury or death resulting from the actions of Buyer or its Representatives in connection with the access rights granted under this Section 6.2. Notwithstanding the foregoing, Seller shall not be required to provide such access if doing so would be reasonably likely to (a) unreasonably disrupt the operations of any Company Entity or its Affiliates; (b) cause a violation or breach of or default under, or give a third party the right to terminate or accelerate any rights under, any agreement to which any Company Entity or its Affiliates; (c) result in a loss of attorney-client or legal privilege to any Company Entity or its Affiliates; (d) constitute a violation of any applicable Law; or (e) cause any competitive harm to any Company Entity or expose any Company Entity any Company Entity or its Affiliates to a risk of Liability. During the Pre-Closing Period, (i) within sixty (60) days following the end of each of the first three calendar quarters of a year, Seller shall deliver to Buyer unaudited consolidated balance sheets of each of the Company and UPPCO as of the end of such calendar quarter, and the related unaudited consolidated income statement, statements of equity, and cash flows, and (ii) promptly following completion of an external audit of the Company and UPPCO for 2020, audited consolidated balance sheets of each of the Company and UPPCO as of December 31, 2020, and the related audited consolidated income statement, statements of equity, and cash flows. All information made available pursuant to this Section 6.2 shall be treated as "Confidential Information" and subject to Section 6.10 herein. All requests for access or information pursuant to this Section 6.2 shall be directed to Seller or its designees. During the period from the Effective Date until the earlier of the Closing Date or the termination of this Agreement in accordance with its terms, Buyer hereby agrees that, except in connection with obtaining the Required Governmental Approvals (but subject to Section 6.3), it is not authorized to and it shall not (and shall cause its Affiliates and its and their respective Representatives not to) contact any representative of any Governmental Authority having jurisdiction in connection with the Transactions or any employee, customer, supplier, distributor or other material commercial counterparty of any Company Entity regarding any Company Entity, its Business or the Transactions without the prior consent of Seller.

Section 6.3      Efforts to Consummate.

(a) During the Pre-Closing Period, subject to the terms and conditions herein provided, Buyer and Seller shall use their respective reasonable best efforts to (i) cause the conditions set forth in ARTICLE VII to be satisfied (and not waived) and to enable the Closing to occur as promptly as practicable and in any event prior to the Termination Date and (ii) obtain as promptly as practicable the Required Governmental Approvals, *provided* that nothing in this Section 6.3 shall require Seller or the Company Entities to agree to obligations or accommodations binding on the Company Entities if the Closing does not occur or to expend or relinquish financial resources (including the sale proceeds of the Transactions) to obtain any Consents or Governmental Approvals (other than applicable filing fees and payments to third party advisors) in connection with the Transactions.

(b) In furtherance of the foregoing covenants, each Party shall:

(i) prepare (or assist the other Party in such other Party's preparation) as soon as is practical following the execution of this Agreement, all necessary filings and reports in connection with the Transactions that may be required to be filed prior to Closing by such Party with FERC or the MPSC or under the HSR Act or any other federal, state or local Laws (it being

understood that filings will be made (A) jointly by the Parties no later than thirty (30) days (subject to extension by mutual agreement) following the execution of this Agreement in the case of FERC 203 Approval, (B) by UPPCO no later than thirty (30) days (subject to extension by mutual agreement) following the execution of this Agreement in the case of FERC 204 Approval, (C) by the Company no later than thirty (30) days (subject to extension by mutual agreement) following the execution of this Agreement in the case of MPSC Approval, (D) by each Party no later than ninety (90) days (subject to extension by mutual agreement) following the Effective Date in the case of the Required Governmental Approval under the HSR Act or (E) by the applicable Party or its Affiliate as soon as practicable but in no event later than thirty (30) days (subject to extension by mutual agreement) following the Effective Date in the case of any other Required Governmental Approval). Except with respect to the filings for the FERC Approvals and the MPSC Approval (for which confidential treatment will be requested to the extent deemed appropriate by the Parties after consultation with counsel and consideration of the commercial sensitivity of the documents and information to be included in the applications to FERC and MPSC), the Parties shall request expedited and confidential treatment of any such filings to the extent feasible. The Parties shall include in the initial filings, reports or testimony, as appropriate, submitted in connection with obtaining the MPSC Approval a reasonably detailed description of the Debt Financing (or such other debt financing that Buyer anticipates that it or the Company Entities would undertake in connection with or after the Closing);

(ii) furnish to the other all assistance, cooperation and information reasonably required for any filings required by this Section 6.3 and in order to achieve the effects set forth in this Section 6.3;

(iii) unless prohibited by applicable Law or by a Governmental Authority, give the other reasonable prior notice of any filings required by this Section 6.3 (including when any such filing is made, given or denied, as applicable) and, to the extent reasonably practicable, of any communication with any Governmental Authority or any material communications with any other Person relating to the transactions under this Agreement (including with respect to any of the actions referred to in this Section 6.3(b)) and, to the extent reasonably practicable, permit the other to review and discuss in advance, and consider in good faith the views of, and secure the participation of, the other in connection with any such filing or communication;

(iv) respond as promptly as practicable under the circumstances to any inquiries received from any Governmental Authority or any other authority enforcing applicable Laws for additional information or documentation in connection with antitrust, competition or similar matters (including a “second request” under the HSR Act) and not extend any waiting period under the HSR Act or enter into any agreement with any such Governmental Authority or other authorities not to consummate the transactions under this Agreement, except with the prior written consent of the other Party; and

(v) unless prohibited by applicable Law or a Governmental Authority, to the extent commercially reasonably practicable, (A) not participate in or attend any formal meeting with any Governmental Authority in respect of this Agreement or the transactions hereunder without the other Party, (B) keep the other Party apprised with respect to any meeting or substantive conversation with any Governmental Authority in respect of this Agreement or the transactions hereunder, (C) cooperate in the filing of any substantive memoranda, white papers, filings, correspondence or other written communications explaining or defending this Agreement or the transactions hereunder, articulating any regulatory or competitive argument or responding to requests or objections made by any Governmental Authority and (D) promptly furnish the other Party with copies of all substantive correspondence, filings and communications (and memoranda

setting forth the substance thereof) between it and its Affiliates and its and their respective Representatives, on the one hand, and any Governmental Authority or members of any Governmental Authority's staff, on the other hand, with respect to this Agreement or the transactions hereunder; *provided* that the Parties shall be permitted to redact any correspondence, filing or communication to the extent such correspondence, filings or communication contains commercially sensitive information.

(c) Buyer shall not, and shall cause its Affiliates not to, take any action, including acquiring any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, other business combination, asset, stock or equity purchase, or otherwise), that could reasonably be expected to materially and adversely affect obtaining any Required Governmental Approvals or making any filing contemplated by this Section 6.3 or the timely receipt thereof. In furtherance of and without limiting any of Buyer's covenants and agreements under this Section 6.3, Buyer shall cooperate in good faith with all Governmental Authorities and use its reasonable best efforts to avoid or eliminate each and every impediment that may be asserted by a Governmental Authority pursuant to any applicable Law with respect to the transactions under this Agreement or in connection with granting any Required Governmental Approvals so as to enable the Closing to occur as soon as reasonably possible; which such reasonable best efforts shall include the following:

(i) defending or pursuing through litigation on the merits, including appeals, any Claim or Governmental Order asserted in any court or other proceeding by any Person, including any Governmental Authority, that seeks to or could prevent or prohibit or impede, interfere with or delay the consummation of the Closing (including pursuing appeals following the failure to obtain any Required Governmental Approval);

(ii) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, the sale, divestiture, licensing or disposition of all or a portion of any assets, operations or businesses of Buyer or its Affiliates, including entering into customary ancillary agreements relating to any such sale, divestiture, licensing or disposition;

(iii) agreeing to any limitation on the conduct of Buyer or its Affiliates (including, after the Closing, the Company Entities);

(iv) agreeing to take any other action as may be required by a Governmental Authority in order to effect each of the following: (A) obtaining all Required Governmental Approvals as soon as reasonably possible and in any event before the Termination Date, (B) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned any Governmental Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (C) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing;

(v) refraining from filing, and committing to prevent its Affiliates from filing, any other application with FERC or the MPSC involving the acquisition (by way of merger, consolidation, share exchange, investment, other business combination, asset, stock or equity purchase, or otherwise) by Buyer or any of its Affiliates of electric generating facilities, electric transmission facilities, electric distribution facilities or related assets prior to obtaining the Required Governmental Approvals and consummating the Transactions; and

(vi) refraining from acquiring, and committing to prevent its Affiliates from acquiring, or entering into any business arrangement to acquire, any “energy affiliates” or “energy subsidiary” as described in 18 C.F.R. section 33.2(c)(2) in the Midcontinent Independent System Operator, Inc. region prior to obtaining the Required Governmental Approvals and consummating the Transactions;

(d)



(e) Buyer hereby recognizes and acknowledges that UPPCO is subject to the jurisdiction and regulatory authority of the MPSC and also is subject to the jurisdiction and regulatory authority of FERC and that UPPCO’s business operations that are subject to the jurisdictions of the MPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 6.3, nothing in this Section 6.3 is intended to prevent, or has the meaning and purpose of, preventing in any way or degree the Company Entities’ normal and ordinary practices and abilities to meet with or have conversations with the MPSC and FERC concerning the Company Entities’ ongoing operations that are subject to the jurisdictions of the MPSC or FERC, respectively. Without limiting the generality of the foregoing, nothing in this Agreement shall prohibit the Company Entities from initiating, continuing to pursue, appealing, settling or entering into any stipulation with respect to any rate case, rate update, rate rider or other rate or regulatory accounting proceeding involving UPPCO. Buyer hereby recognizes and acknowledges that the Company Entities, in the normal and ordinary course and scope of their meetings and conversations with the MPSC and FERC concerning the Company Entities’ ongoing operations, may also find it appropriate to discuss the Transactions (including responding to inquiries as to the potential effects of such Transactions on the ongoing operations under discussion), without Buyer being present or participating in such discussions, and without any breach resulting therefrom by Seller of its obligation under this Section 6.3. In the event of such discussions by the Company with the MPSC or FERC, without Buyer’s participation in such discussions, Seller promptly thereafter shall reasonably apprise Buyer of such discussions concerning the Transactions.

#### Section 6.4 Directors and Officers; Indemnification.

(a) At the Closing, Buyer shall, or shall cause the Company and UPPCO (at Buyer’s expense) to, obtain, maintain or be insured under, and fully pay for irrevocable “tail” insurance policies naming each current and former director, officer and employee of any of the Company Entities, each Person who is serving or has served at the request of or for the benefit of any of the Company Entities as a director, officer, employee, agent or fiduciary of another Person and each of their respective heirs and estates (collectively, the “Indemnified Parties”) as direct beneficiaries with a claims period of at least six (6) years from the Closing Date from a creditworthy insurance carrier with respect to directors’ liability insurance in

an amount and scope at least as favorable as the existing policies of the Company and UPPCO with respect to matters existing or occurring at or prior to the Closing Date. Prior to the Closing, Seller shall cause the Company and UPPCO to use commercially reasonable efforts to cooperate with Buyer's requests for documentation and information as are reasonably necessary to obtain such insurance policies in a cost-effective manner, which may include exercising any applicable conversion options under the Company's existing directors' liability insurance. Subject to the foregoing, Buyer shall not, or shall cause the Company and UPPCO to not, cancel or change such insurance policies in any respect which would adversely affect the rights of any Indemnified Party.

(b) For at least six (6) years from the Closing Date, the Company Entities shall, and, following the Closing, Buyer shall cause the Company Entities to, maintain, or cause to be maintained, all rights to indemnification for and exculpation from costs, claims, losses, Liabilities, damages, fines, judgments, settlements, fees and expenses (including attorneys' and experts' fees and expenses) (collectively, "Costs") for acts or omissions occurring at or prior to the Closing and rights to advancement of expenses related thereto now existing in favor of any Indemnified Party as provided in the Governing Documents of the Company Entities or any Contract between such Indemnified Party and a Company Entity so that such rights survive the Closing, and the foregoing shall not be amended, repealed, or otherwise modified in any manner that would adversely affect any rights of any Indemnified Party.

(c) In the event that Buyer, any of the Company Entities or any of their respective successors or assigns (i) consolidates with or merges with or into any other Person and shall not be the continuing or surviving corporation or entity in such consolidation or merger or (ii) transfers all or substantially all of its properties and assets to any Person, then, and in either such case, proper provision shall be made so that the successors and assigns of Buyer or the Company entity, as the case may be, shall assume or succeed to all of the obligations set forth in this Section 6.4.

(d) The provisions of this Section 6.4 shall survive consummation of the Transactions and are expressly intended to be for the benefit of, and shall be enforceable by, each of the Indemnified Parties, each of whom is an express third party beneficiary of this Section 6.4. Buyer shall pay all reasonable expenses, including reasonable attorneys' fees, that may be incurred by any Indemnified Party in enforcing the indemnity and other obligations provided in this Section 6.4.

Section 6.5 Public Announcements. None of Buyer, Seller, or any of their respective Affiliates or their or their respective Affiliates' Representatives shall make any public announcement regarding this Agreement, the Closing or the Transactions to the financial community, any Governmental Authority, customers, suppliers or the general public without the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed), *provided, however*, that a press release substantially in the form of the press release delivered by Seller to Buyer, and approved by Buyer, prior to the execution of this Agreement may be issued by Seller upon execution of this Agreement. Notwithstanding the foregoing, this Section 6.5 shall not (a) prevent any such announcement being made to the extent required by Law, any Governmental Order, or the rules of any national securities exchange; (b) subject to the terms of the Confidentiality Agreement, (i) prevent Buyer from disclosing the details of the Transactions to ratings agencies, insurance brokers and other third-party service providers of Buyer to the extent necessary for Buyer to arrange for an efficient transition of the Company Entities as Subsidiaries of Buyer or (ii) prevent Buyer from disclosing the details of the Transaction to actual or prospective financing sources or investors of Buyer and its Affiliates; (c) prevent a Party from disclosing the details of the Transactions, or otherwise making internal announcements regarding the Transactions, to its Affiliates or its or their Representatives; (d) prohibit any Party from communicating with any Governmental Authority or third parties (including representatives of labor unions) to the extent reasonably necessary for the purpose of (i) seeking any consents or approvals of, making any filings with or providing any notifications to, any such Governmental Authority or third party, and no Party shall be liable for any public

disclosure made by any such Governmental Authority or third party with respect thereto, or (ii) responding to customer and counterparty questions and concerns regarding this Agreement, the Transactions and the transition of the Business of the Company Entities or (e) prevent a Party from making any press release or public statement that is consistent in all material respects with any prior public disclosures regarding the Transactions made in accordance with this Agreement (to the extent the information to be utilized from such prior public disclosures remains accurate in all material respects); *provided, however*, that if a Party is required to make any such announcement pursuant to clause (a) above, the disclosing Party shall promptly before the announcement is made notify the other Party thereof where practicable and lawful to do so, and the disclosing Party shall use its reasonable best efforts to agree upon the text of any such announcement with the other Party prior to release of the announcement.

Section 6.6      Employees and Employee Benefit Matters.

(a) During the period beginning on the Closing Date and ending on the 24 month anniversary of the Closing Date, Buyer shall cause UPPCO and its Affiliates, as the case may be, to provide each Employee who is employed by UPPCO as of immediately prior to the Closing and who remains employed by UPPCO immediately following the Closing (the “UPPCO Employees”) with the following, in each case as applicable: (i) a base salary or wage rate that is at least equal to the base salary or wage rate provided to such UPPCO Employee immediately prior to the Closing; (ii) target short-term incentive compensation opportunities that are at least equal to the target short-term incentive compensation opportunities provided to such UPPCO Employee immediately prior to the Closing; and (iii) employee benefits [REDACTED] that are substantially no less favorable in the aggregate (including with respect to the proportion of employee cost) than those provided such UPPCO Employee immediately prior to the Closing. Notwithstanding anything to the contrary in the foregoing, the terms and conditions of employment of any UPPCO Employee who is subject to a Collective Bargaining Agreement as of immediately prior to the Closing shall be in accordance with the applicable Collective Bargaining Agreement.

(b) Buyer acknowledges that each Collective Bargaining Agreement and UPPCO’s obligations thereunder will remain in effect in accordance with its terms from and following the Closing.

(c) From and after the Closing Date, Buyer shall cause UPPCO and its Affiliates, as the case may be, to recognize, for purposes of terms of employment, compensation and eligibility, waiting periods, vesting or other benefit/coverage eligibility (including eligibility for retiree benefits/coverages) and benefit accrual under all employee benefit and compensation plans and programs maintained after the Closing by Buyer, UPPCO and their respective Affiliates in which such UPPCO Employee is permitted to participate, including paid vacation and sick time benefits, each UPPCO Employee’s service to the extent it was recognized for such respective purpose by UPPCO immediately prior to the Closing Date. Buyer shall cause each employee welfare benefit plan or program sponsored by Buyer or an Affiliate of Buyer that the UPPCO Employees may be eligible to participate in on or after the Closing Date to waive any preexisting condition exclusion or restriction with respect to participation and coverage requirements applicable to UPPCO Employees. From and after the Closing Date, Buyer shall cause UPPCO and its Affiliates, as the case may be, to recognize and give each UPPCO Employee credit for his or her accumulated paid time off balance as of the Closing Date under the paid time off program maintained by UPPCO in respect of the UPPCO Employee immediately before the Closing and assume all liabilities related thereto, unless required under applicable Laws to be paid out by UPPCO on the Closing Date.

(e) Following the Closing Date, Buyer shall cause UPPCO to provide annual cash incentive bonuses to UPPCO Employees, payable in the ordinary course, for the year in which the Closing Date occurs that are no less favorable than the aggregate amount accrued in respect of such bonuses by UPPCO immediately prior to the Closing Date.

(f) Nothing in this Section 6.6 shall be treated as an amendment of, or undertaking to amend, any Employee Benefit Plan or any other benefit plan, program, agreement or arrangement. The provisions of this Section 6.6 are solely for the benefit of the Parties, and nothing in this Section 6.6, express or implied, shall confer upon any Employee or legal representative or beneficiary thereof, or any other Person, any rights or remedies, including any right to employment or continued employment for any specified period, or compensation or benefits of any nature or kind whatsoever, under this Agreement or any rights or remedies under any Employee Benefit Plan that such employee, representative, beneficiary or other Person would not otherwise have under the terms of that Employee Benefit Plan.

Section 6.7 Access to Books and Records. From and after the Closing until the six (6) year anniversary of the Closing Date, Buyer shall, and shall cause the Company Entities to, provide Seller and its authorized Representatives with access, at Seller's expense, (for the purpose of examining and copying), during normal business hours, upon reasonable notice, to the books and records of the Company Entities with respect to periods or occurrences prior to or on the Closing Date for the purpose of Tax audits, Tax Returns, insurance claims, governmental investigations, legal compliance, and financial statement preparation. Unless otherwise consented to in writing by Seller, Buyer shall not, and shall not permit the Company Entities to, for a period of six (6) years following the Closing Date, destroy, alter or otherwise dispose of any of the books and records of the Company Entities for any period prior to the Closing Date without first giving reasonable prior notice to Seller and offering to surrender to Seller such books and records or any portion thereof which Buyer may intend to destroy, alter or dispose of.

Section 6.8 Insurance. Seller shall cause to be maintained in full force and effect the insurance coverage currently in place or substantially similar insurance coverage for the Company Entities until the Closing. Buyer shall be solely responsible for providing, or causing to be provided, insurance to the Company Entities for any claims made after the Closing. If any loss, accident, event, claim or circumstance that could reasonably be expected to lead to a claim occurs prior to the Closing which is insured under any insurance policy for the Company Entities, notice associated with such losses shall be tendered to the applicable insurers prior to the Closing, and Seller shall use commercially reasonable efforts to ensure that the Company Entities can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (but only to the extent such policies otherwise permit such recovery following termination thereof). Seller shall provide reasonable assistance to the Company Entities after Closing with regard to such pursuit of claims.

Section 6.9 Actions Between Reference Time and Closing. Seller will take no action between the Reference Time and the Closing that would result in any Losses or Liability for the Company Entities, except those incurred in the ordinary course of business of the Company Entities.

Section 6.10 Confidentiality. The provisions of the Confidentiality Agreement are incorporated into this Agreement by reference and shall remain binding and in full force and effect on and after the Effective Date until the earlier of the expiration of its term or the Closing; *provided, however*, that, notwithstanding anything to the contrary contained in the Confidentiality Agreement, Buyer's confidentiality obligations with respect to Confidential Information (as defined in the Confidentiality Agreement) shall terminate only in respect of that portion of the Confidential Information primarily relating to the Company Entities or the Business (the "Company Confidential Information"), and the confidentiality obligations not relating primarily to the Company Entities or the Business (including the identities and identifiable descriptions of any other third parties that may have been involved in any sale process for the Company Entities or received confidential information in connection with a potential sale of the Company Entities) shall continue in full force and effect for a period of two (2) years following the Closing Date. If, for any reason, the Transactions are not consummated, notwithstanding anything to the contrary contained in the Confidentiality Agreement, the Confidentiality Agreement shall continue in full force and effect for a period of two (2) years following the termination of this Agreement. As it relates to any and all information, whether written or oral, relating to Buyer or its Affiliates and obtained by Seller in connection with the Transactions ("Buyer Confidential Information"), from the date hereof through the two (2) year period following the Closing Date, and as it relates to the Company Confidential information, from the Closing Date through the two (2) year period following the Closing Date: Seller shall, and shall cause its Affiliates and its and their respective Representatives to, hold in confidence and not disclose any Buyer Confidential Information or Company Confidential Information, except to the extent that Seller can show that such information (a) is generally available to and known by the public through no fault of Seller, any of its Affiliates or their respective Representatives; or (b) is lawfully obtained by Seller, any of its Affiliates or their respective Representatives from sources which are not prohibited from disclosing such information by a legal, contractual or fiduciary obligation. If Seller or any of its Affiliates or their respective Representatives are compelled to disclose any Buyer Confidential Information or, following the Closing, Company Confidential Information by judicial or administrative process or by other requirements of Law, Seller shall promptly notify Buyer in writing (to the extent permitted by applicable Law) and may disclose only that portion of such information which Seller is advised by its counsel in writing is legally required to be disclosed, provided that Seller shall (upon Buyer's request and at Buyer's expense) use commercially reasonable efforts to obtain an appropriate protective order or other reasonable assurance that confidential treatment will be accorded such information.

Section 6.11 Distributions. Notwithstanding anything herein to the contrary, to the extent permitted by the Debt Agreements, the Parties agree that Seller shall have the right, at or prior to the Closing, to cause any Company Entity to distribute all of the cash held by such Company Entity to Seller or its Affiliates. No adjustment shall be made to the Base Purchase Price as a result of any such distributions; *provided* that, in accordance with terms hereof, the Closing Consideration and Final Consideration will be subject to adjustment based on the reductions to Estimated Closing Cash and Final Closing Cash resulting from such distributions.

Section 6.12 Taxes.

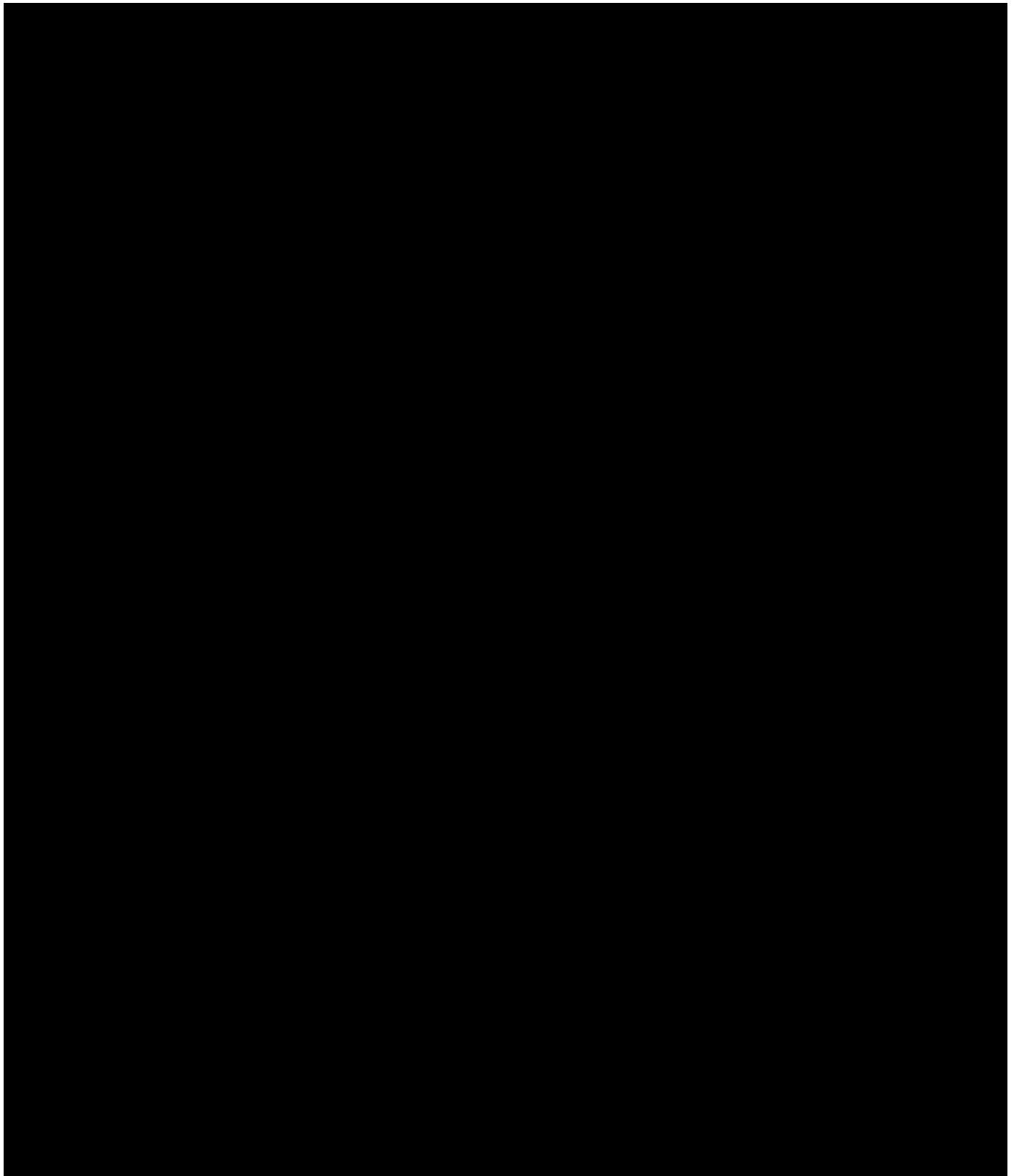
(a) Notwithstanding anything in this Agreement to the contrary, Buyer shall pay any and all Transfer Taxes imposed on Buyer, Seller or any Company Entity by Law as a result of or occasioned by the sale of the Company Stock pursuant to this Agreement. Accordingly, if Seller is required by Law to pay any such Transfer Taxes, Buyer shall reimburse Seller within five (5) Business Days of payment by Seller for such amounts. Seller and Buyer shall timely file their own Tax Returns for any Transfer Tax as required by Law and shall notify the other Party when such filings have been made. In addition, Buyer shall be solely responsible for any Transfer Taxes arising from any action to dissolve, terminate or restructure the Company Entities or to convey, distribute or transfer any Assets by deed, bill of sale or otherwise to or from the Company Entities in each case after the Closing.



(b) After the Closing Date, Buyer and Seller agree to provide each other with such cooperation and information relating to the Company Entities as either Party may reasonably request in connection with (i) preparing and filing any Tax Return, amended Tax Return or other Tax filing or claim for refund of Taxes; (ii) determining any Tax Liability, right to refund of Taxes, or the availability of any net operating losses, credits or other Tax assets; (iii) conducting or defending any Action with respect to Taxes; or (iv) effectuating the terms of this Agreement. Such cooperation will include the retention and (upon the other Party's request) the provision of records and information that are reasonably relevant to any such action and making employees and tax advisors available on a mutually convenient basis to provide additional information and explanation of any material provided under this Agreement. Seller agrees (A) to retain all books and records with respect to Tax matters pertinent to the Company Entities relating to any taxable period beginning before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by Buyer, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any Governmental Authority, and (B) to give Buyer reasonable written notice prior to transferring, destroying or discarding any such books and records and, if Buyer so requests, Seller will allow Buyer to take possession of such books and records. Notwithstanding the foregoing, no Party shall be unreasonably required to prepare any document based upon, or provide any, information not then in its possession and which is not reasonably ascertainable from its tax advisors in response to a request under this Section 6.12(b).

(c) Buyer agrees that neither Buyer nor any of Buyer's Representatives or Affiliates shall make (or permit any person to make) an election under Section 338 or Section 336(e) of the Code (or any analogous provision of state, local or foreign Law) with respect to any Company Entity in connection with the purchase of Company Stock pursuant to this Agreement.

Section 6.13 R&W Insurance Policy. Buyer shall use commercially reasonable efforts to cause the R&W Insurance Policy to be bound and to be issued prior to the Closing Date, and shall: (a) pay when due all applicable premiums, fees, costs and Taxes payable thereunder; (b) satisfy on a timely basis all conditions necessary for the continuance of coverage under the R&W Insurance Policy at, from and after the Closing; (c) comply with the terms of any post-Closing deliverables set out in the R&W Insurance Policy; (d) not agree to any amendment, modification, variation or waiver of the R&W Insurance Policy (or do or permit anything which has a similar effect) in a manner that is adverse to Seller, its Affiliates or Representatives without Seller's prior written consent; and (e) ensure that the terms of the R&W Insurance Policy provide a waiver of the insurer's subrogation rights thereunder against Seller or any of its Affiliates or Representatives and provide that no insurer or Person claiming through an insurer in relation to the R&W Insurance Policy may bring any claim against Seller or any of its Affiliates or Representatives by way of subrogation, claim for contribution or otherwise, except in the case of Fraud.



UPPCO to: Section 6.15 Post-Closing Matters. From and after the Closing, Buyer shall cause

(a) maintain its existing corporate offices in Michigan and, other than in UPPCO's normal course of business, not alter the existing office locations; and

(b) continue its existing charitable contribution practices and community support practices in UPPCO's service territory and in amounts no less than those in effect on the Effective Date for no less than five (5) years after the Closing Date.

Section 6.16 PPP Loan. If the Forgiveness Determination has not occurred at or prior to the Closing, following the Closing, Seller and Buyer shall use commercially reasonable efforts to take, or cause to be taken, all actions required under the PPP Law, in order for the PPP Loan to be Forgiven. Promptly following any Forgiveness Determination that occurs after the Closing, Buyer and Seller shall: (a) with respect to all or any portion of the PPP Loan that has been finally determined by the PPP Lender and the SBA to be Forgiven in accordance with the PPP Law, issue a joint written instruction to the PPP Lender, in its capacity as the escrow agent under the PPP Escrow Agreement, instructing the PPP Lender to release to Seller, such Forgiven amount plus any earnings thereon, but less the amount of any PPP Claim Amounts, (b) with respect to all or any portion of the PPP Loan that has been finally determined by the PPP Lender and the SBA not to be subject to Forgiveness in accordance with the PPP Law, issue a joint written instruction to the PPP Lender, in its capacity as the escrow agent under the PPP Escrow Agreement, instructing the PPP Lender to release to the PPP Lender, as repayment of the PPP Loan, such unforgiven amount, and (c) with respect to any PPP Claim Amount, issue a joint written instruction to the PPP Lender, in its capacity as the escrow agent under the PPP Escrow Agreement, to disburse to Buyer (in the event Buyer or any Company Entity has already paid such PPP Claim Amount) or pay to the applicable Person (in the event Buyer or any Company Entity has not already paid such PPP Claim Amount) the amount of such PPP Claim Amount, in the case of each of the preceding clauses (a), (b) and (c) in accordance with the PPP Escrow Agreement. If the Additional Consent from the PPP Lender with respect to the PPP Loan has not been received prior to the Closing, Seller shall cause UPPCO to pay in full all Indebtedness under the PPP Loan no later than immediately prior to the Closing such that there would be no Closing PPP Loan Balance.

Section 6.17 Exclusivity. Seller shall not (and shall cause its Affiliates and Representatives not to) solicit or encourage the initiation or submission of interest, offers, inquiries or proposals (or consider or entertain any of the foregoing) from any Person other than Buyer and its Affiliates and Representatives (including by way of providing any non-public information concerning any Company Entity or the assets thereof or material thereto to any Person or otherwise), initiate or participate in any negotiations or discussions, or enter into, accept or authorize any agreement or agreement in principle, or announce any intention to do any of the foregoing, with respect to any expression of interest, offer, proposal to acquire, purchase, license, or lease all or a substantial portion of any Company Entity or the assets thereof, in each case whether by stock purchase, merger, consolidation, combination, reorganization, recapitalization, purchase of assets, tender offer, lease, license or otherwise other than Buyer and its Affiliates and Representatives (any of the foregoing, a "Competing Transaction"). Seller shall, and shall cause the Company Entities and their respective Affiliates and Representatives to, immediately discontinue any ongoing discussions or negotiations (other than any ongoing discussions with Buyer) relating to any possible Competing Transaction, and shall, to the extent permitted under any confidentiality or non-disclosure agreement existing as of the date hereof, promptly provide Buyer with notice of any written expression of interest, proposal or offer relating to a possible Competing Transaction that is received by any of Seller, Company Entity, or their respective Affiliates or Representatives from any Person after the date hereof. Seller hereby represents and warrants to Buyer that this Section 6.17 does not and will not conflict with or violate any Contract to which Seller, any Company Entity, or their respective Affiliates or, to the Knowledge of Seller, Representatives are currently bound.

Section 6.18 Financing.

(a) Seller shall, and shall cause each of the Company Entities and its and their Representatives to, use commercially reasonable efforts to cause the Representatives of the Company Entities to reasonably cooperate in connection with the arrangement of the Debt Financing as may reasonably be requested by Buyer. Such cooperation shall include: (i) furnishing Buyer and the Lenders, as promptly as practicable, the Financial Statements; (ii) reasonable and customary communication between senior management of Seller and the Company Entities with parties acting as agents or arrangers for, and prospective lenders of, the Debt Financing for the transactions contemplated by this Agreement and contact with rating agencies, as reasonably requested by Buyer and reasonably required in connection with the Debt Financing; (iii) assisting in a commercially reasonable manner Buyer and the Lenders in the preparation of one customary confidential information memorandum, materials for rating agency presentations, offering documents, private placement memoranda, prospectuses and other similar materials to be used in connection with the Debt Financing; (iv) facilitating the granting of a security interest (and perfection thereof to the extent perfection is required at Closing under the Debt Financing) in collateral owned by the Company Entities; *provided*, that any obligations contained in all such agreements and documents shall be expressly subject to the occurrence of the Closing and effective no earlier than the Closing; and (v) furnishing to Buyer at least three (3) Business Days prior to Closing all documentation and other information with respect to the Company Entities as shall have been requested in writing by Buyer at least ten (10) Business Days prior to the Closing that is required under applicable “know-your-customer” and anti-money laundering rules and regulations, including the PATRIOT Act and beneficial ownership regulations. Notwithstanding the foregoing, (A) nothing herein shall require such cooperation to the extent it would unreasonably interfere or would reasonably be expected to unreasonably interfere with the operations of the Company Entities, (B) none of Seller or the Company Entities shall be required to pay any commitment, arrangement or other fees or incur any liability or obligation in connection with the Debt Financing whatsoever (in the case of the Company Entities, prior to the Closing), (C) none of Seller or the Company Entities shall be required to take any action that conflicts with or violates or could reasonably be expected to conflict with or violate (1) its Governing Documents, (2) any Contract to which it is a party or (3) any applicable Law, (D) none of Seller or the Company Entities shall be required to enter into or approve any Debt Financing (in the case of the Company Entities, effective prior to the Closing), (E) none of Seller or the Company Entities shall be required to provide or deliver any legal opinion that is in effect prior to Closing, (F) none of Seller or the Company Entities shall be required to provide any indemnities in connection with the Debt Financing that are effective prior to the Closing, and (G) none of Seller or the Company Entities shall be required to provide any information the disclosure of which is prohibited or restricted under applicable Law or is, or is reasonably determined by Seller or any Company Entity to be, subject to any *bona fide* third party confidentiality restrictions or any legal privilege. Buyer shall be solely responsible for all costs and expenses incurred by Seller and the Company Entities and their respective Representatives in connection with the cooperation requested and/or provided under this Section 6.18(a), and Buyer shall, promptly upon written request of Seller, reimburse Seller and the Company Entities for all reasonable and documented out-of-pocket costs and expenses incurred by or on behalf of any of Seller and the Company Entities and their respective Representatives in connection therewith.

(b) Buyer shall use its reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to obtain the Financing on the terms and conditions described in the Equity Commitment and the Debt Commitment, which shall include using reasonable best efforts to: (i) maintain in full force and effect the Equity Commitment and the Debt Commitment and to negotiate and execute definitive agreements with respect to the Debt Financing on terms (unless otherwise agreed by Buyer) and conditions contemplated by the Debt Commitment (the “Financing Agreements”); (ii) fully enforce its rights under the Equity Commitment, the Debt Commitment and the Financing Agreements, solely to the extent the conditions to the funding of the Equity Commitment by the Guarantors pursuant to the Equity Commitment have been satisfied in accordance with the terms

thereof; *provided*, that in no event shall this Agreement require Buyer or its Affiliates to commence litigation against the Guarantors; and (iii) upon satisfaction or, when permissible, waiver of the conditions set forth in the Equity Commitment, the Debt Commitment and the Financing Agreements and satisfaction or, when permissible, waiver of the conditions set forth in Section 7.1 and Section 7.3 and Seller's and each Company Entity's obligations under Section 6.18(a)(i) and Section 6.18(a)(v), consummate the Financing at or prior to the Closing. Buyer will fully pay, or cause to be fully paid, any and all commitment fees, arrangement fees or other fees required by the Debt Commitment and Financing Agreements as and when they become due. Notwithstanding anything in this Agreement to the contrary, Buyer shall not amend, modify or supplement any of the terms or conditions of (or otherwise waive any rights under) the Equity Commitment or otherwise terminate the same without the prior written consent of Seller.

(c) In the event any portion of the Financing becomes unavailable on the terms (including pursuant to any "flex" provisions) and conditions contemplated in the Equity Commitment, the Debt Commitment and/or the Financing Agreements, Buyer shall use its reasonable best efforts to (i) arrange to obtain any such portion from alternative sources, on terms (unless otherwise agreed by Buyer) and conditions no less favorable to Buyer than those included in the Debt Commitment as in effect on date of this Agreement (including any "flex" provisions) in an amount sufficient, when added to the portion of the Financing that is available, to consummate the Transactions ("Alternative Financing") and (ii) obtain, and, when obtained, to promptly provide Seller with a copy of (subject to only redactions in a customary manner to remove fee amounts and all other economic terms that do not impact the conditionality or amount of funding under the Alternative Debt Commitment), a new financing commitment that provides for such Alternative Financing (the "Alternative Financing Debt Commitment"), which shall replace or supplement the existing Debt Commitment. In the event that any Alternative Financing Debt Commitment is obtained, (A) any references in this Agreement to the "Debt Commitment" will be deemed to include the Debt Commitment to the extent not superseded by an Alternative Financing Commitment Letter at the time in question and any Alternative Financing Commitment Letter to the extent then in effect and (B) any reference in this Agreement to the "Debt Financing" means the debt financing contemplated by the Debt Commitment as modified pursuant to the foregoing.

(d) Buyer shall give Seller prompt written notice of any material breach by any party of the Equity Commitment, the Debt Commitment and/or the Financing Agreements, and Buyer shall give Seller prompt written notice of any termination or threatened (in writing) termination of the Equity Commitment, the Debt Commitment and/or the Financing Agreements. To the extent requested in writing by Seller, Buyer shall keep Seller informed on a reasonably current basis in reasonable detail of the status of its efforts to arrange the Financing and, if applicable, the Alternative Financing. Buyer shall not permit any amendment, modification or supplement to be made to, or any waiver of, any provision or remedy under, the Equity Commitment, the Debt Commitment and/or the Financing Agreements that imposes new or additional or otherwise expands, or makes more burdensome, in any manner the conditions precedent to the funding on the Closing Date of the Financing as set forth in such agreements in a manner that would reasonably be expected to materially impair, delay or prevent the consummation of the Transactions, without Seller's prior written consent.

(e) Upon satisfaction or, when permissible, waiver of the conditions set forth in Section 7.1 and Section 7.3 and Seller's and each Company Entity's compliance with the requirements of this Section 6.18(a)(i) and Section 6.18(a)(v), Buyer shall cause the equity funding provided for under the Equity Commitment to be funded in a timely manner in order for the Closing to occur in accordance with Section 2.4.

(f) Notwithstanding anything to the contrary herein, obtaining any Additional Consent with respect to the Company Revolving Credit Agreement or the UPPCO Revolving Credit Agreement shall not constitute a condition to the obligation of either Party to consummate the Closing.

Section 6.19 Further Assurances. From time to time, as and when reasonably requested by any Party and at such requesting Party's expense, the other Parties shall execute and deliver, or cause to be executed and delivered, all such documents and instruments and shall take, or cause to be taken, all such further or other actions as the requesting Party may reasonably deem necessary or desirable to evidence and effectuate the Transactions.

## ARTICLE VII

### CONDITIONS TO CLOSING

Section 7.1 Conditions Precedent to Obligations of Buyer and Seller. The respective obligations of each Party to consummate the Transactions are subject to the satisfaction (or, where legally permissible, waiver by such Party) at or prior to the Closing of each of the following conditions:

(a) No Adverse Order. There shall be no Governmental Order that is in effect that restrains or prohibits the consummation of the Transactions.

(b) Governmental Approvals. All Required Governmental Approvals shall have been obtained and shall be in full force and effect, and all terminations or expirations of waiting periods imposed by any Governmental Authority shall have occurred.

(c) Unduly Burdensome Condition. No Governmental Order issued in connection with the MPSC Approval shall impose any Unduly Burdensome Condition.

Section 7.2 Additional Conditions Precedent to Obligations of Seller. The obligation of Seller to consummate the Transactions is subject to the satisfaction (or waiver by Seller) at or prior to the Closing of each of the following additional conditions:

(a) Accuracy of Buyer's Representations and Warranties. The representations and warranties of Buyer contained in this Agreement, disregarding all qualifications contained herein relating to materiality or material adverse effect, shall be true and correct in each case on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on the Closing Date (except for such representations and warranties which by their express provisions are made as of an earlier date, in which case, as of such earlier date), except to the extent that the failure of such representations and warranties to be true and correct would not have a material adverse impact on the ability of Buyer to perform its obligations under this Agreement; and Seller shall have received a certificate signed by a duly authorized officer or representative of Buyer confirming the foregoing as of the Closing Date.

(b) Covenants and Agreements of Buyer. Buyer shall have performed and complied in all material respects with all of the covenants and agreements hereunder required to be performed and complied with by it prior to the Closing; and Seller shall have received a certificate signed by a duly authorized officer or representative of Buyer confirming the foregoing as of the Closing Date.

(c) Closing Payments. Buyer shall have paid the Closing Consideration and the other amounts due to be paid or deposited by Buyer at the Closing in accordance with Section 2.5.

(d) Closing Documents. Buyer shall have delivered all agreements, instruments and documents required to be delivered by Buyer under Section 2.5.

Section 7.3 Additional Conditions Precedent to Obligations of Buyer. The obligation of Buyer to consummate the Transactions is subject to the satisfaction (or waiver by Buyer) at or prior to the Closing of each of the following additional conditions:

(a) Accuracy of Seller's Representations and Warranties. (i) The representations and warranties of Seller contained in this Agreement (other than the Seller Fundamental Representations) and Seller's representations and warranties in clauses (b)-(d) of Section 3.2 and clauses (b)-(d) of Section 4.3, disregarding all qualifications contained herein relating to materiality or Material Adverse Effect, shall be true and correct, in each case on and as of the Closing Date (except for such representations and warranties which by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on such date, except to the extent that the failure of such representations and warranties to be true and correct would not have a Material Adverse Effect and (ii) each of the Seller Fundamental Representations (other than clauses (b)-(d) of Section 3.2 and clauses (b)-(d) of Section 4.3) and Seller's representation and warranty in Section 3.6(b) shall be true and correct in all respects, in each case, on and as of as of the Closing Date (except for such representations and warranties which by their express provisions are made as of an earlier date, in which case, as of such earlier date) with the same force and effect as though such representations and warranties had been made on such date. Buyer shall have received a certificate from Seller signed by a duly authorized officer or representative of Seller's general partner confirming the foregoing as of the Closing Date.

(b) Covenants and Agreements of Seller. Seller shall have performed and complied in all material respects with all of the covenants and agreements hereunder required to be performed and complied with by Seller prior to the Closing; and Buyer shall have received a certificate from Seller signed by a duly authorized officer or representative of Seller's general partner confirming the foregoing as of the Closing Date.

(c) Closing Documents. Seller shall have delivered all agreements, instruments and documents required to be delivered by Seller pursuant to Section 2.5.

Section 7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in this ARTICLE VII to be satisfied if such failure was caused by such Party's failure to use reasonable best efforts to cause the Closing to occur, as required by Section 6.3.

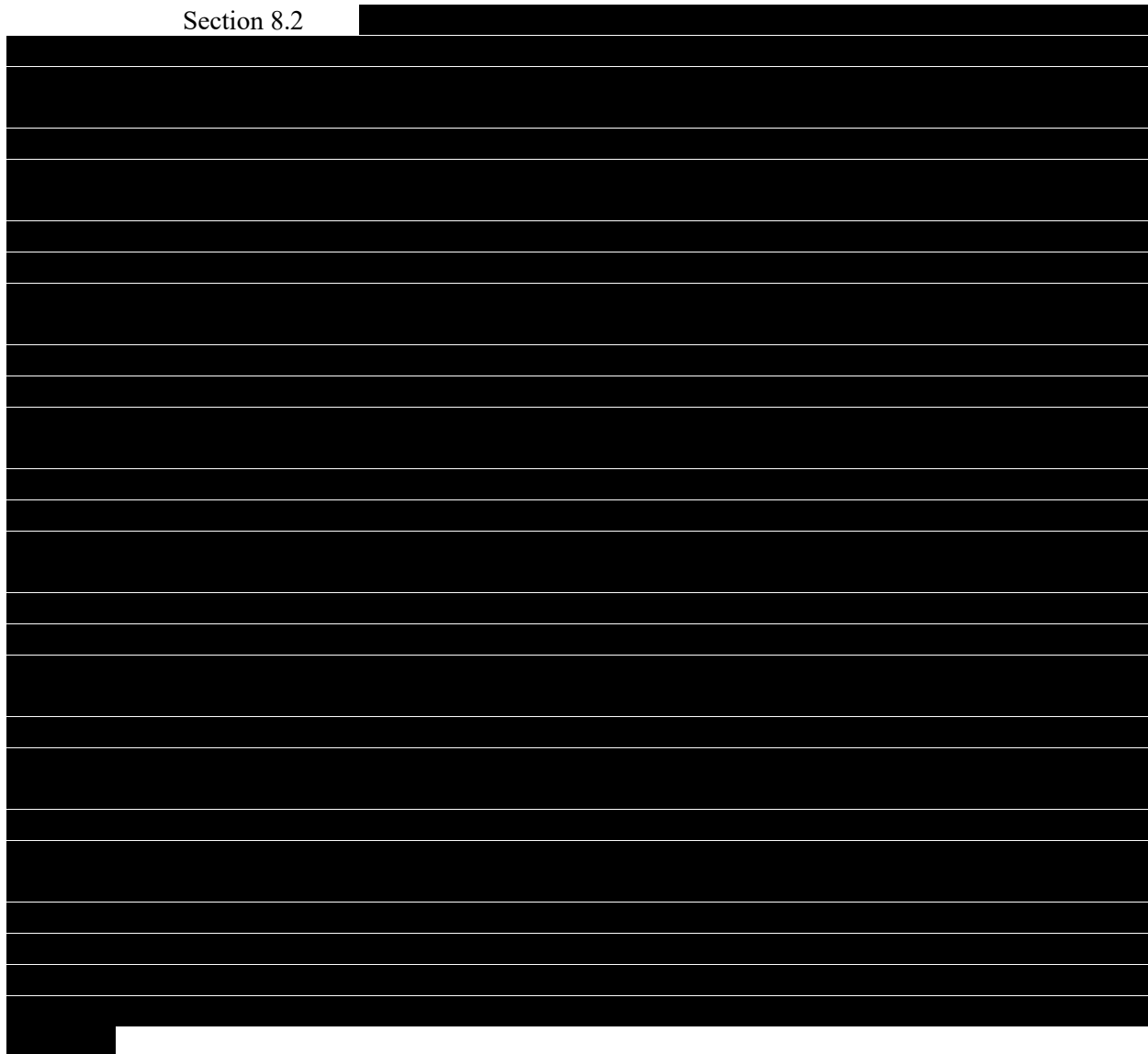
## ARTICLE VIII

### SURVIVAL AND REMEDIES

Section 8.1

[REDACTED]

Section 8.2



Section 8.3      Waiver. No failure or delay on the part of any Party in the exercise of any right hereunder shall impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty or agreement herein, nor shall any single or partial exercise of any such right preclude other or further exercise thereof or of any other right.

Section 8.4







Section 8.5 Direct Claims. Seller shall be obligated to indemnify Buyer Indemnitees for those claims giving rise to Indemnified Losses not resulting from a Third Party Claim and for which a Buyer Indemnitee has given Seller written notice thereof (a “Direct Claim Notice”). Any Direct Claim Notice delivered by a Buyer Indemnitee to Seller with respect to Indemnified Losses shall set forth the basis of the claim and, to the extent reasonably practicable, a reasonable estimate of the amount thereof (which estimate shall not be conclusive of the final amount of such Indemnified Losses). The Parties shall promptly issue joint written instructions to the Escrow Agent to disburse to Buyer Indemnitee from the Indemnity Escrow Account the amount of any undisputed claim for indemnification under this Agreement not resulting from a Third Party Claim. If Seller, by written notice to Buyer Indemnitee, disputes a claim for indemnification under this Agreement that is not a Third Party Claim, the Parties shall promptly issue joint written instructions to the Escrow Agent to disburse to Buyer Indemnitee from the Indemnity Escrow Account the undisputed amount of such claim (if any), and Buyer and Seller shall use good faith efforts to resolve any remaining dispute; *provided*, that if any such remaining dispute is not resolved within thirty (30) days of Buyer Indemnitee’s delivery of the applicable Direct Claim Notice, Buyer Indemnitee may commence an action against Seller in accordance with the terms of this Agreement.

Section 8.6 Third Party Indemnification Procedures. The obligations of Seller to indemnify Buyer Indemnitees under this ARTICLE VIII with respect to Indemnified Losses resulting from Claims by a third party (a “Third Party Claim”), are subject to the terms and conditions set forth in this Section 8.6.

(a) Buyer Indemnitee will give Seller written notice promptly but in no event more than fifteen (15) Business Days after learning of such Third Party Claim (a “Third Party Claim Notice”); *provided* that Buyer Indemnitee’s failure to give a Third Party Claim Notice within such period shall not release, waive or otherwise affect Seller’s obligations under this ARTICLE VIII unless, and then only to the extent that, such failure has prejudiced the defense available to Seller with respect to any such Third Party Claim. Within fifteen (15) days after receipt of any Third Party Claim Notice, Seller shall notify Buyer Indemnitee (i) whether Seller disputes its potential Liability with respect to such Third Party Claim and (ii) whether Seller desires, at the sole cost and expense of Seller (subject to the last sentence of this Section 8.6(a)), to defend Buyer Indemnitees against such Third Party Claim; *provided, however*, that Seller shall not be entitled to assume the defense (which shall be controlled by Buyer Indemnitee), and Seller shall pay the fees and expenses of counsel retained by Buyer Indemnitee, if the object of the Third Party Claim is to obtain an injunction, restraining order, declaratory relief or other non-monetary relief (including criminal penalties) against a Buyer Indemnitee or Buyer Indemnitee has notified Seller in its written notice of such Third Party Claim that it has determined in good faith that there is a reasonable probability that (A) such Third Party Claim will result in Indemnified Losses in excess of the amount remaining in the Indemnity Escrow Account, (B) such Third Party Claim will result in Indemnified Losses that will not exceed the remaining Deductible (if applicable) at the time of such Third Party Claim, (C) in light of actual or potential conflict of interest, it would be inappropriate for legal counsel selected by Seller to represent Buyer Indemnitee, (D) an adverse determination of the Third Party Claim would constitute a Material Adverse Effect, or (E) Buyer Indemnitee may reasonably have available to it one or more defenses or counterclaims that are inconsistent with one or more of those that may be available to Seller with respect

to such Third Party Claim. The party not controlling such Third Party Claim shall cooperate with and make available to the controlling party such assistance and materials as may be reasonably requested by the controlling party (including copies of any summons, complaint or other pleading which may have been served on such party and any written claim, demand, invoice, billing or other document evidencing or asserting the same). The party controlling such Third Party Claim shall, upon reasonable request, keep the non-controlling party reasonably advised of the status of such Third Party Claim and shall consider in good faith recommendations made by the non-controlling party with respect thereto.

(b) If Seller assumes the defense of a Third Party Claim in accordance herewith:

(i) Buyer Indemnatee may retain separate co-counsel at its sole cost and expense and participate in the defense of such Third Party Claim, but Seller shall control the investigation, defense and settlement thereof;

(ii) Buyer Indemnatee shall not consent to the entry of any judgment or enter into any settlement with respect to such Third Party Claim without the prior written consent of Seller (not to be unreasonably withheld, conditioned or delayed); and (iii) Seller shall not consent to the entry of any judgment or enter into any settlement or compromise with respect to such Third Party Claim without the prior written consent of Buyer Indemnatee unless the judgment or settlement provides: (A) solely for the payment of money by Seller that will be paid or reimbursed concurrent with the execution and delivery of such judgment, settlement or compromise and that does not exceed the amount remaining in the Indemnity Escrow Account, (B) an unconditional release from all Liability with respect to such Third Party Claim, and (C) no obligation of any Buyer Indemnatee to perform obligations or admit liability. In the event that Seller (1) does not elect in writing to assume the defense of a Third Party Claim or is not entitled to assume defense of a Third Party Claim pursuant to Section 8.6(a) or (2) elects to assume defense of a Third Party Claim but fails to diligently and promptly defend or settle such Third Party Claim, then Buyer Indemnatee shall have the right to defend against, negotiate, settle or otherwise deal with the Third Party Claim in such manner as such Buyer Indemnatee deems reasonably appropriate at the cost and expense of Seller if such costs and expenses exceed the amount of the remaining Deductible, if applicable (and such costs and expenses shall be included in the calculation of the Deductible, if applicable); *provided, however*, that Buyer Indemnatee may not enter into, without Seller's consent, which shall not be unreasonably withheld, conditioned, or delay, any compromise or settlement of such Third Party Claim. Seller may participate in, but not control, any defense or settlement controlled by Buyer Indemnatee pursuant to this Section 8.6(b), and Seller shall bear its own costs and expenses with respect to such participation. In the event Seller assumes the defense of any such Third Party Claim, Buyer shall reimburse Seller for all costs and expenses incurred by Seller in connection therewith to the extent, if applicable, that such costs and expenses do not exceed the amount of the remaining Deductible, if applicable (and such costs and expenses shall be included in the calculation of the Deductible, if applicable).

(c) Upon final judgment or final settlement or compromise of any Third Party Claim pursuant to this Section 8.6, the Parties shall promptly issue joint written instructions to the Escrow Agent to disburse to such third party or, if applicable, Buyer Indemnatee, from the Indemnity Escrow Account the amount of such Third Party Claim.

#### Section 8.7

[REDACTED]

[REDACTED]

Section 8.8 Treatment of Indemnification Claims. All indemnification payments made under this Agreement shall be treated by the Parties as an adjustment to the Final Consideration unless otherwise required by applicable Law.

Section 8.9

[REDACTED]



## ARTICLE IX

### TERMINATION

Section 9.1     Termination. This Agreement may be terminated at any time prior to the Closing:

(a)     by either Buyer or Seller, by written notice to the other, if the Closing shall not have occurred by the date that is one (1) year after the Effective Date (the “Termination Date”); *provided, however*, that such date may be extended for one or more periods not to exceed ninety (90) days in the aggregate by either Buyer or Seller by written notice to the other Party, no later than five (5) days prior to the Termination Date, if all of the conditions to the Closing set forth in Section 7.1, Section 7.2 and Section 7.3 have been satisfied or waived, or shall then be capable of being satisfied (except for the conditions set forth Section 7.1(a) or Section 7.1(b) and those conditions that by their nature are to be satisfied at the Closing); *provided, further*, that the right to terminate this Agreement under this Section 9.1(a) shall not be available to any Party whose failure to fulfill any obligation under this Agreement shall have been the primary cause of the failure of the Closing to occur on or prior to such Termination Date;

(b)     by either Buyer or Seller, by written notice to the other, in the event that any Governmental Order which is final and nonappealable prevents the consummation of the Transactions or makes consummation of such transactions illegal; *provided*, that the right to terminate this Agreement under this Section 9.1(b) shall not be available to any Party whose failure to fulfill any obligation under this Agreement shall have been the primary cause of such Governmental Order;

(c)     by Seller, by written notice to Buyer, (i) if Buyer has (A) breached its obligation to make the payments of the Closing Consideration and the other amounts due to be paid or deposited by Buyer at the Closing in accordance with Section 2.5 and fails to make such payments within two (2) Business Days from Seller’s notice or (B) breached any of its covenants, agreements or obligations contained in Section 6.3, and such breach is not cured, or is incapable of being cured, within thirty (30) days (but no later than the Termination Date after giving effect to any extension) of receipt of written notice by Seller to Buyer of such breach, or (ii) if Buyer has breached any other representation, warranty, covenant or agreement on the part of Buyer set forth in this Agreement, in each case, where the effect of such breach would cause the conditions set forth in Section 7.1, Section 7.2(a) or Section 7.2(b) not to be satisfied, and such breach is not cured, or is incapable of being cured, within thirty (30) days (but no later than the Termination Date after giving effect to any extension) of receipt of written notice by Seller to Buyer of such breach; or

(d) by Buyer if Seller has breached any representation, warranty, covenant or agreement on the part of Seller set forth in this Agreement (including an obligation to consummate the Closing), in each case, where the effect of such breach would cause the conditions set forth in Section 7.1, Section 7.3(a) or Section 7.3(b) not to be satisfied, and such breach is not cured, or is incapable of being cured, within thirty (30) days (but no later than the Termination Date after giving effect to any extension) of receipt of written notice by Buyer to Seller of such breach; *provided*, that Buyer is not then in breach of this Agreement so as to cause any of the conditions set forth in Section 7.2(a) or Section 7.2(b) not to be satisfied; or

(e) by the mutual written consent of Buyer and Seller.

Section 9.2 Effect of Termination.

(a) If this Agreement is validly terminated pursuant to Section 9.1, there will be no liability or obligation on the part of Seller or Buyer (or any of their respective Representatives or Affiliates), except as expressly provided in this Section 9.2.

(b) Regardless of the reason for termination, Section 1.2, Section 6.5, Section 6.10, Section 9.2, Section 9.3, Section 9.4 and ARTICLE X (and, in each case the corresponding definitions set forth in Section 1.1) will survive any termination of this Agreement.

(c) Upon termination of this Agreement by either Party for any reason, each Party shall return or destroy, in accordance with the terms of the Confidentiality Agreement, all documents and other materials provided by the other Party relating to the Company Entities, or this Agreement and the Transactions, including any information relating to the Parties to this Agreement, whether obtained before or after the execution of this Agreement, and all information received by Buyer with respect to the Company Entities, the Company Stock or otherwise relating to the Transactions or Seller shall remain subject to the Confidentiality Agreement.

(d)



[REDACTED]

(c)

[REDACTED]

(f)

[REDACTED]

(g) [REDACTED]

Section 9.3 Specific Performance and Other Remedies. Each Party hereby acknowledges and agrees that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed by a Party in accordance with their specific terms or were otherwise breached by a Party. Notwithstanding anything to the contrary herein, but subject to the last sentence of this Section 9.3, if any Party violates or refuses to perform any covenant or agreement made by such Party herein, without limiting or waiving in any respect any rights or remedies of a Party under this Agreement now or hereafter existing at law, in equity or by statute, the non-breaching Party or Parties shall, in addition to any other remedy to which a Party is entitled at law or in equity, be entitled to specific performance of such covenant or agreement or seek any other equitable relief, in each case without the proof of actual damages. Each Party agrees to waive any requirement for the security or posting of any bond in connection with any such equitable remedy, and agrees that it shall not oppose the granting of an injunction, specific performance or other equitable relief on the basis that (a) the other Party has an adequate remedy at law, or (b) an award of specific performance is not an appropriate remedy for any reason at law or equity.

Section 9.4 Limitation of Liability. Notwithstanding anything to the contrary in this Agreement or any other Transaction Document and except as provided in Section 9.2, no Party shall have any liability under any provision of this Agreement or any other Transaction Document for any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, or loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement or any other Transaction Document, in each case, that are not probable and reasonably foreseeable as of the Effective Date and, for avoidance of doubt, nothing in this Section 9.4 shall limit Seller's liability to Buyer Indemnitees for diminution in value constituting direct damages, whether based on a multiple of earnings or any other multiple-based formulation or otherwise; *provided* that this Section 9.4 shall not limit Buyer's obligation to pay, or the amount of, the Buyer Termination Fee under Section 9.3 or otherwise limit the obligations in respect thereof under the Buyer Guaranty; *provided further*, that this Section 9.4 shall not limit damages arising from claims for Fraud or Third Party Claims.

## ARTICLE X

### MISCELLANEOUS

Section 10.1 Parties in Interest. Nothing in this Agreement, other than as expressly provided herein, shall be construed to give any Person, other than the Parties and their respective successors and permitted assigns any legal or equitable right, remedy, claim or benefit under or in respect of this Agreement; *provided, however*, that the last two sentences of Section 8.2, this Section 10.1, Section 10.2, Section 10.4, Section 10.8, Section 10.12 and Section 10.13 shall be for the benefit of, and enforceable by, the Lenders.

Section 10.2 Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Buyer may assign its rights and obligations hereunder to (i) one or more Affiliates of Buyer without the consent of, but with at least two (2) Business Days advance written notice to, Seller prior to the date any filings are made under Section 6.3(a)(i) and (ii) any lenders for collateral security purposes (including creating a security interest herein) or otherwise assign as collateral in respect of any financing, but, in either case, such assignment shall not release Buyer from its obligations hereunder. Except as provided in the preceding sentence, no Party may assign (by contract, stock sale, merger, operation of Law or otherwise) either this Agreement or any of its

rights, interests, or obligations hereunder without the express prior written consent of the other Party, and any attempted assignment, without such consent, shall be null and void.

Section 10.3 Notices. All notices and other communications required or permitted to be given by any provision of this Agreement shall be in writing and mailed (certified or registered mail, postage prepaid, return receipt requested) or sent by hand or overnight courier, or by facsimile transmission (with acknowledgment received), charges prepaid and addressed to the intended recipient as follows, or to such other addresses or numbers as may be specified by a Party from time to time by like notice to the other Parties:

If to Seller:

Lake AIV, L.P.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

with a copy to (which shall not constitute notice):

Morgan, Lewis & Bockius LLP  
101 Park Avenue  
New York, New York 10178  
Attention: John Klauberg  
Michael Espinoza  
E-mail: John.Klauberg@morganlewis.com  
Michael.Espinoza@morganlewis.com

If to Buyer:

Axium UP Holdings LLC

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

with a copy to (which shall not constitute notice):



King & Spalding LLP  
1185 Avenue of the Americas  
New York, New York 10036  
Attention: Jonathan M.A. Melmed  
E-mail: jmelmed@kslaw.com

All notices and other communications given in accordance with the provisions of this Agreement shall be deemed to have been given and received when delivered by hand or transmitted by facsimile (with acknowledgment received), three (3) Business Days after the same are sent by certified or registered mail, postage prepaid, return receipt requested or one (1) Business Day after the same are sent by a reliable overnight courier service, with acknowledgment of receipt.

Section 10.4 Amendments. This Agreement may not be amended, supplemented or otherwise modified except in a written instrument executed by each of the Parties; *provided*, that, the last two sentences of Section 8.2, Section 10.1, Section 10.2, this Section 10.4, Section 10.8, Section 10.12 and Section 10.13 (and any provision of this Agreement to the extent an amendment, modification, supplement, change or waiver of such provision would modify the substance of any of the foregoing provisions) may not be amended, modified, supplemented, changed or waived in a manner that is adverse to the Lenders without the prior written consent of each affected Lender.

Section 10.5 Exhibits and Schedules. All Exhibits and Schedules and the Seller Disclosure Schedule attached hereto are hereby incorporated herein by reference and made a part hereof. Any matter which is disclosed pursuant to any Section of or Schedule or Exhibit to this Agreement or the Seller Disclosure Schedule (or any section of any Schedule or Exhibit to this Agreement or the Seller Disclosure Schedule) in such a way as to make reasonably apparent its relevance or applicability to any representation made elsewhere in this Agreement or to the information called for by any other Section of or Schedule or Exhibit to this Agreement or the Seller Disclosure Schedule (or any other section of any Schedule or Exhibit to this Agreement or the Seller Disclosure Schedule) shall be deemed to be an exception to such representations and to be disclosed with respect to all such Sections and such Schedules and Exhibits to this Agreement and the Seller Disclosure Schedule, notwithstanding the omission of a reference or cross-reference thereto. No disclosure of any matter contained in the Schedules and the Seller Disclosure Schedule (a) shall create an implication that such matter meets any standard of materiality; (b) represents a determination that such item or matter did not arise in the ordinary course of business; (c) shall be deemed or interpreted to expand the scope of the disclosing Party's representations and warranties, obligations, covenants, conditions or agreements contained herein; (d) shall constitute, or be deemed to constitute, an admission of liability or obligation regarding such matter; (e) represents a determination that the consummation of the Transactions requires the consent of any third party; or (f) constitutes, or shall be deemed to constitute, an admission to any third party concerning such item or matter (matters reflected in the applicable Schedule or Seller Disclosure Schedule are not necessarily limited to matters required by this Agreement to be reflected in the applicable Schedule or Seller Disclosure Schedule; such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature, nor shall the inclusion of any item be construed as implying that any such item is "material" for any purpose).

Section 10.6 Headings. The table of contents and section headings contained in this Agreement, the Exhibits, Schedules and Seller Disclosure Schedule are for reference purposes only and shall not be deemed a part of this Agreement or affect in any way the meaning or interpretation of this Agreement.

Section 10.7 Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

Section 10.8 Entire Agreement. This Agreement (including the Schedules and the Exhibits and the Seller Disclosure Schedule hereto), the Buyer Guaranty and the other Transaction Documents constitute the entire agreement among the Parties with respect to the subject matter hereof and thereof and supersede any prior understandings, negotiations, agreements, or representations among the Parties of any nature, whether written or oral, to the extent they relate in any way to the subject matter hereof or thereof.

Section 10.9 Severability. If any provision of this Agreement or the application of any such provision to any Person or circumstance shall be declared by any court of competent jurisdiction to be invalid, illegal, void or unenforceable in any respect, all other provisions of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it has been held invalid, illegal, void or unenforceable, shall nevertheless remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination that any provision, or the application of any such provision, is invalid, illegal, void or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible to the fullest extent permitted by applicable Law in an acceptable manner to the end that the Transactions are fulfilled to the greatest extent possible. Notwithstanding anything contained herein, under no circumstance shall the obligation of Seller to deliver the Company Stock be enforceable absent enforceability of the obligation of Buyer to pay the Closing Consideration and the other amounts due to be paid or deposited by Buyer at the Closing in accordance with Section 2.5 and any fees and expenses contemplated to be paid by Buyer under this Agreement on the Closing Date and vice versa.

Section 10.10 Expenses.

(a) Buyer shall be obligated to pay any and all costs or filing fees and expenses and third party fees, costs, or other expenses incurred in connection with obtaining the Required Governmental Approvals or the R&W Insurance Policy, including but not limited to the legal fees and expenses of the counterparties thereto if necessary.

(b) Unless otherwise provided herein, each of Buyer and Seller agrees to pay, without right of reimbursement from the other, all costs and expenses incurred by it incident to the performance of its obligations hereunder, including the fees and disbursements of counsel, accountants, financial advisors, experts and consultants employed by the respective Parties in connection with the Transactions, whether or not the Transactions are consummated.

(c) Notwithstanding anything in this Agreement to the contrary, this Section 10.10 shall survive the Closing and any termination of this Agreement.

Section 10.11 Legal Representation.

(a) It is acknowledged by each of the Parties that the Company Entities and Seller have retained Morgan, Lewis & Bockius LLP ("Seller's Counsel") to act as their counsel in connection with the Transactions and that Seller's Counsel has not acted as counsel for any other Party in connection with the Transactions and that none of the other Parties has the status of a client of Seller's Counsel for conflict of interest or any other purposes as a result thereof in connection with the Transaction. Seller and

Buyer hereby agree that, in the event that any dispute or any other matter arises out of this Agreement or the Transactions in which the interests of any Seller and its Affiliates, on the one hand, and Buyer and its Affiliates (including the Company Entities), on the other hand, are adverse, arises after the Closing between Buyer or any of the Company Entities, on the one hand, and any Seller and its Affiliates, on the other hand, Seller's Counsel may represent any Seller and any of its Affiliates in such dispute even though the interests of Seller and its Affiliates may be directly adverse to Buyer or any of the Company Entities, and even though Seller's Counsel formerly may have represented one or more of the Company Entities in any matter substantially related to such dispute.

(b) Seller and Buyer and their respective Affiliates, including following the Closing with respect to the Company Entities, acknowledge and agree that, in connection with any future disputes, lawsuits, actions, proceedings, investigations or other matters, including any dispute between Buyer, the Company Entities and/or any of its or their respective Affiliates, on the one hand, and any Seller and/or any of its Affiliates, on the other hand, or with or between any other Persons, with respect to the Transactions or otherwise, (i) as to all communications among Seller's Counsel, any of the Company Entities, any Seller and/or any of its Affiliates relating to the Transactions, the attorney-client privilege, attorney work product protection and the expectation of client confidence belongs solely to Seller and/or its Affiliates (other than the Company Entities), and may be controlled by Seller or its Affiliates (other than the Company Entities), and shall not pass to or be claimed by Buyer, the Company Entities, or any of their respective Affiliates and (ii) Seller's Counsel may disclose to Seller or its Affiliates any information learned by Seller's Counsel in the course of its representation of any Seller, the Company Entities or their respective Affiliates in connection with the Transactions, whether or not such information is subject to attorney-client privilege, attorney work product protection, or Seller's Counsel's duty of confidentiality. Accordingly, Buyer and its Affiliates shall not have access to any such communications, or to the files of Seller's Counsel relating to the Transactions, whether or not the Closing occurs. Without limiting the generality of the foregoing, upon and after the Closing, (A) to the extent that files of Seller's Counsel constitute property of the client, only Seller and its Affiliates shall hold such property rights and (B) Seller's Counsel shall have no duty whatsoever to reveal or disclose any such attorney-client communications or files to Buyer or the Company Entities by reason of any attorney-client relationship between Seller's Counsel and the Company Entities or otherwise.

(c) If and to the extent that, at any time subsequent to Closing, Buyer or any of its Affiliates (including the Company Entities) shall have the right to assert or waive any attorney-client privilege with respect to any communication between the Company Entities or their respective Affiliates and any Person representing them in connection with the Transactions that occurred at any time prior to the Closing, Buyer, on behalf of itself and its Affiliates (including the Company Entities), shall be entitled to waive such privilege only with the prior written consent of Seller (not to be unreasonably withheld, conditioned or delayed).

Section 10.12 Governing Law; Waiver of Jury Trial. THIS AGREEMENT AND ANY RIGHT OR OBLIGATION WITH RESPECT TO ANY LENDER IN CONNECTION WITH THIS AGREEMENT OR THE DEBT FINANCING AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY, AND ANY CLAIM, CONTROVERSY, DISPUTE, SUIT, ACTION OR PROCEEDING RELATING HERETO OR THERETO OR ARISING HEREUNDER OR THEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW). IN FURTHERANCE OF THE FOREGOING, THE LAW OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW) WILL CONTROL THE INTERPRETATION AND CONSTRUCTION OF THIS AGREEMENT, EVEN IF UNDER SUCH JURISDICTION'S CHOICE OF LAW OR CONFLICT OF LAW ANALYSIS, THE SUBSTANTIVE LAW OF SOME OTHER JURISDICTION WOULD ORDINARILY APPLY. EACH PARTY (IN THE CASE OF SELLER, ON

ITS OWN BEHALF AND ON BEHALF OF EACH OF ITS REPRESENTATIVES AND AFFILIATES) IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT SUCH PARTY MAY LEGALLY AND EFFECTIVELY DO SO, TRIAL BY JURY IN ANY ACTION ARISING UNDER THIS AGREEMENT, THE BUYER GUARANTY AND THE OTHER TRANSACTION DOCUMENTS. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, EACH OF THE PARTIES (IN THE CASE OF SELLER, ON ITS OWN BEHALF AND ON BEHALF OF EACH OF ITS REPRESENTATIVES AND AFFILIATES) TO THIS AGREEMENT HEREBY AGREES THAT IT WILL NOT BRING OR SUPPORT ANY ACTION, CAUSE OF ACTION, CLAIM, CROSS-CLAIM OR THIRD PARTY CLAIM OF ANY KIND OR DESCRIPTION, WHETHER AT LAW OR IN EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE LENDERS IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS, INCLUDING ANY DISPUTE ARISING OUT OF OR RELATING IN ANY WAY TO THE DEBT COMMITMENT, DEBT FINANCING, FINANCING AGREEMENTS OR THE PERFORMANCE THEREOF, IN ANY FORUM OTHER THAN THE STATE OR FEDERAL COURTS OF NEW YORK LOCATED IN THE BOROUGH OF MANHATTAN AND ANY APPELLATE COURT THEREOF, AND THAT THE PROVISIONS OF THIS SECTION RELATING TO THE WAIVER OF JURY TRIAL SHALL APPLY TO ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, CROSS-CLAIM OR THIRD PARTY CLAIM. THE PARTIES HEREBY (IN THE CASE OF SELLER, ON ITS OWN BEHALF AND ON BEHALF OF EACH OF ITS REPRESENTATIVES AND AFFILIATES) AGREE THAT MAILING OF PROCESS OR OTHER PAPERS IN CONNECTION WITH ANY SUCH ACTION OR PROCEEDING IN THE MANNER PROVIDED IN SECTION 10.3, OR IN SUCH OTHER MANNER AS MAY BE PERMITTED BY LAW, SHALL BE VALID AND SUFFICIENT SERVICE THEREOF AND HEREBY WAIVE ANY OBJECTIONS TO SERVICE ACCOMPLISHED IN THE MANNER HEREIN PROVIDED.

Section 10.13 Consent to Jurisdiction. Any Action seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement, the Transaction Documents or the Transactions shall be brought and determined exclusively in the jurisdiction of the United States District Court for the Southern District of New York, if a basis for federal court jurisdiction is present, and, otherwise, in the state courts of the State of New York located in the Borough of Manhattan, and each of the Parties hereby consents to the exclusive jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such Action and irrevocably waives, to the fullest extent permitted by Law, any objection which it may now or hereafter have to the laying of venue of any such Action in any such court or that any such Action which is brought in any such court has been brought in an inconvenient forum. Process in any such Action may be served on any Party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each Party agrees that service of process on such Party may be made by complying with the provisions of Section 10.3, and such compliance shall be deemed effective service of process on such Party.

Section 10.14 Personal Liability. Except as otherwise specifically set forth herein, in the Buyer Guaranty or in the other Transaction Documents, this Agreement shall not create or be deemed to create or permit any personal liability or obligation on the part of any direct or indirect partner or equity holder of either Party, the Company Entities or any Representatives thereof.

Section 10.15 Counterparts. This Agreement may be executed in multiple counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. This Agreement shall become effective when Buyer and Seller shall have executed this Agreement.

Section 10.16 Delivery by Facsimile or Email. This Agreement and any signed agreement entered into in connection herewith or contemplated hereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or scanned pages via electronic

mail, shall be treated in all manner and respects as an original Contract and shall be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such Contract, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties hereto or thereto. No Party hereto or to any such contract shall raise the use of a facsimile machine or email to deliver a signature or the fact that any signature or contract was transmitted or communicated through the use of a facsimile machine or email as a defense to the formation of a contract and each such party forever waives any such defense.

\* \* \* \* \*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed  
as of the date first above written.

**SELLER:**

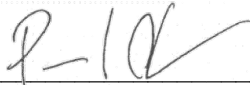
LAKE AIV, LP

By: Basalt Infrastructure Partners GP Limited,  
its General Partner

By:   
Name: **Chris McErlane**  
Title: **Director**

**BUYER:**

AXIUM UP HOLDINGS LLC

By:   
Name: Paulo Arencibia  
Title: President

**Exhibit A**

**Net Working Capital Calculation**

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**Exhibit B**

**Draft R&W Insurance Policy**

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**SELLER DISCLOSURE SCHEDULE**

**TO**

**STOCK PURCHASE AGREEMENT**

**dated as of January 22, 2021**

**by and between**

**LAKE AIV, LP**

**as Seller**

**and**

**Axium UP Holdings LLC**

**as Buyer**

---

## INTRODUCTION

Reference is made to that certain Stock Purchase Agreement (the “Agreement”), dated as of January 22, 2021, by and between Lake AIV, LP, a Delaware limited partnership (the “Seller”), and Axiom UP Holdings LLC, a Delaware limited liability company (the “Buyer”).

This disclosure schedule (the “Seller Disclosure Schedule”) is the Seller Disclosure Schedule as defined in the Agreement. Unless otherwise defined herein, all capitalized terms used in this Seller Disclosure Schedule shall have the respective meanings ascribed to such terms in the Agreement. Any matter which is disclosed pursuant to any Section of this Seller Disclosure Schedule in such a way as to make reasonably apparent its relevance or applicability to any representations made elsewhere in the Agreement or to the information called for by any other Section of this Seller Disclosure Schedule shall be deemed to be an exception to such representations and to be disclosed with respect to all Sections of the Agreement and the Seller Disclosure Schedule notwithstanding the omission of a reference or cross-reference thereto. No disclosure of any matter contained in this Seller Disclosure Schedule (a) shall create an implication that such matter meets any standard of materiality, (b) represents a determination that such item or matter did not arise in the ordinary course of business, (c) shall be deemed or interpreted to expand the scope of Seller’s representations and warranties, obligations, covenants, conditions or agreements contained in the Agreement, (d) shall constitute, or be deemed to constitute, an admission of liability or obligation regarding such matter, (e) represents a determination that the consummation of the transactions contemplated hereby requires the consent of any third party, or (f) constitutes, or shall be deemed to constitute, an admission to any third party concerning such item or matter (matters reflected in the Seller Disclosure Schedule are not necessarily limited to matters required by the Agreement to be reflected in the Seller Disclosure Schedule; such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature, nor shall the inclusion of any item be construed as implying that any such item is “material” for any purpose). Except as otherwise limited herein or in the Agreement, all information and disclosures contained herein are made as of the date of the related representation and warranty as set forth in the Agreement, and their accuracy is confirmed only as of that date and not at any time thereafter.

Headings contained in the Seller Disclosure Schedule are for reference purposes only and shall not be deemed a part of the Agreement or the Seller Disclosure Schedule or affect in any way the meaning or interpretation of the Agreement or the Seller Disclosure Schedule.

The Seller Disclosure Schedule is confidential. In disclosing the information set forth herein, the Seller expressly does not waive any attorney-client privilege associated with any such information or any protection afforded by the work product doctrine with respect to any of the matters disclosed herein.

## Section 1.1-FCE

### **Forecasted Capital Expenditures**

[illegible]

**Section 1.1-KS**

**Knowledge**

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**Section 1.1-PL**

**Permitted Liens**

None.

## Section 3.2

### Non-Contravention

(b)

#### Additional Consents:

1. In the event the Existing Debt Election is made, the consummation of the Transactions would constitute a Change of Control as defined in the Note Purchase Agreement which would trigger certain rights of the holders of the Notes under the Note Purchase Agreement to have their Notes purchased by the Company.
2. In the event the Existing Debt Election is made, the consummation of the Transactions would constitute a Change of Control as defined in the UPPCO Revolving Credit Agreement, which would constitute an event of default absent consent from the lender parties thereunder, or the repayment of all outstanding obligations.
3. In the event the Existing Debt Election is made, the consummation of the Transactions would constitute a Change of Control as defined in the Company Revolving Credit Agreement, which would constitute an event of default absent consent from the lender parties thereunder, or the repayment of all outstanding obligations.
4. The consummation of the Transactions would constitute a change in ownership and a default under the Business Loan Agreement and associated Promissory Note, each dated as of April 17, 2020, by and between UPPCO and Range Bank, absent consent from the lender thereunder or the repayment or Forgiveness of all outstanding obligations.
5. The consummation of the Transactions would constitute a change of ownership under the SBA Procedural Notice (Control No.: 5000-20057) issued on October 2, 2020, and thereby require that, prior to the Closing, UPPCO provide the PPP Lender with written notice of the Transactions and copies of the proposed agreements or other documents that effectuate the Transactions, absent the repayment or Forgiveness of all outstanding obligations.

### Section 3.3

#### Capitalization

(c)

<b>Entity Name</b>	<b>Jurisdiction of Organization</b>	<b>Form of Organization</b>	<b>Owner of Equity Interests (and Form and Percentage Owned)</b>
Upper Peninsula Power Holding Company	Delaware	Corporation	Lake AIV, L.P. (100% of outstanding shares of common stock)
Upper Peninsula Power Company	Michigan	Corporation	Upper Peninsula Power Holding Company (100% of outstanding shares of common stock)



### **Section 3.4**

#### **Required Governmental Approvals**

1. MPSC Approval
2. FERC Approvals
3. Filings and approvals including expiration or early termination of the applicable waiting periods under the HSR Act
4. Approval by the Federal Communications Commission of the transfer of control of wireless licenses issued by the FCC for microwave radio equipment in use by UPPCO

### Section 3.8

#### Real Property

(a)

<b>Data Room Reference</b>	<b>File Title</b>	<b>Grantor</b>	<b>Grantee</b>	<b>County</b>	<b>State</b>	<b>Recording Date</b>	<b>Liber/ Instrument No.</b>	<b>Page</b>
7.2.3.1.2	Alger Schoolcraft	The Cliffs Power & Light Company	Upper Peninsula Power Company	Schoolcraft and Alger	Michigan	Not Recorded	Not Recorded	Not Recorded
7.2.3.1.3	Alger Sub-Prision	Cliffs Forest Products Company	Upper Peninsula Power Company	Alger	Michigan	1/5/1990	130	210
		Upper Peninsula Power Company	American Transmission Company	Alger	Michigan	7/16/2001	170	546
		Upper Peninsula Power Company	American Transmission Company	Schoolcraft	Michigan	7/19/2001	158	42
7.2.3.1.6	Barnum Substation	The Cleveland-Cliffs Iron Company	Upper Peninsula Power Company	Marquette	Michigan	2/27/1986	355	585
7.2.3.1.7	Bay View Substation	Donald F. Marvic and Kenneth J. Marvic	Upper Peninsula Power Company	Delta	Michigan	2/25/1991	360	964
7.2.3.1.8	Bergland Dam	H.C. Schulte	Upper Peninsula Power Company	Houghton	Michigan	8/24/1965	154	215
		H.C. Schulte	James F. Marling (Deputy Acting Auditor General)	Gogebic	Michigan	8/24/1965	154	217
		H.C. Schulte	James F. Marling (Deputy Acting Auditor General)	Gogebic	Michigan	8/24/1965	154	219

<b>Data Room Reference</b>	<b>File Title</b>	<b>Grantor</b>	<b>Grantee</b>	<b>County</b>	<b>State</b>	<b>Recording Date</b>	<b>Liber/ Instrument No.</b>	<b>Page</b>
		Victoria Copper Mining Company	Northern Acquisition Company	Gogebic	Michigan	12/10/1929	73	168
		Duluth South Shore and Atlantic Company	Victoria Copper Mining Company	Gogebic	Michigan	Not Recorded	Not Recorded	Not Recorded
		H.C. Schulte and Doris L. Schulte	Upper Peninsula Power Company	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Kevin G. Poissant	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Kevin G. Poissant	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
7.2.3.1.9	Bond Falls	Harry A. Bond and Katherine Bond	Upper District Power Company	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Frank H. Womack	The Copper District Power Company	Ontonagon	Michigan	10/3/1931	17	190
		Jas B Goodman Company	The Copper District Power Company	Ontonagon	Michigan	10/10/1931	17	194
		Marvin Starkweather	Copper District Power Co.	Ontonagon	Michigan	10/21/1931	16	370
		August Wallen and Henrietta E. Wallen	The Copper District Power Co.	Ontonagon	Michigan	10/31/1931	16	378
		Harry A. Bond and Katherine Bond	Copper District Power Company	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		August Wallen and Henrietta E. Wallen	The Copper District Power Co.	Ontonagon	Michigan	1/26/1935	19	103

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		Jas. B. Goodman Company	Copper District Power Company	Ontonagon	Michigan	9/27/1934	18	155
		Robert Johnson	Copper District Power Company	Ontonagon	Michigan	1/11/1933	16	526
		August Wallen and Henrietta E. Wallen	The Copper District Power Co.	Ontonagon	Michigan	5/5/1933	16	543
		Walter M. Starkweather and Laura M. Starkweather	The Copper District Power Co.	Ontonagon	Michigan	6/30/1933	16	570
		William Bonifas Lumber Company	Copper District Power Company	Ontonagon	Michigan	11/6/1934	18	179
		Carl O. Bay and Grace A. Bay	Copper District Power Company	Ontonagon	Michigan	9/8/1934	14	599
		Edward H. Goessl and Clara Goessl	Copper District Power Company	Ontonagon	Michigan	6/4/1937	19	497
		George O. Driscoll and Mayme F. Driscoll	Copper District Power Company	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Keweenaw Land Association, Limited	Copper District Power Company	Ontonagon	Michigan	1/13/1938	22	102
		Longyear Estate, Inc. and Groton Realty Corporation	Copper District Power Company	Ontonagon	Michigan	1/3/1938	22	94
		Blanche Lindstedt and Hazel M. Paulus	Copper District Power Company	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Longyear Estate, Inc. and Henrietta B. Almy and Henry P. Burt and Lucy M. Burt	Copper District Power Company	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded

<b>Data Room Reference</b>	<b>File Title</b>	<b>Grantor</b>	<b>Grantee</b>	<b>County</b>	<b>State</b>	<b>Recording Date</b>	<b>Liber/ Instrument No.</b>	<b>Page</b>
		Harry A. Bond and Katherine Bond	Copper District Power Company	Ontonagon	Michigan	4/5/1938	20	472
		William Bonifas Lumber Company	Copper District Power Company	Ontonagon	Michigan	3/7/1940	13	575
		John J. Walsh and Eppie Walsh	Copper District Power Company	Ontonagon	Michigan	1/17/1941	24	179
		John J. Walsh and Eppie Walsh	Copper District Power Company	Ontonagon	Michigan	1/17/1941	26	5
		Auditor General	Copper District Power Company	Ontonagon	Michigan	1/26/1932	7	601
		David D. Sexton and Florence Emma Sexton	Copper District Power Company	Ontonagon	Michigan	5/12/1941	24	213
		David D. Sexton and Florence Emma Sexton	Copper District Power Company	Ontonagon	Michigan	5/12/1941	24	214
		Upper Peninsula Power Company	United States of America	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		United States of America	Upper Peninsula Power Company	Ontonagon	Michigan	3/18/1971	64	506
		Upper Peninsula Power Company	State of Michigan	Ontonagon	Michigan	1/6/1993	94	159
		Upper Peninsula Power Company	Christ J. Lind and Arlene Lind and Kristen Lind	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Lee Koprowski and Janet Koprowski	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Perry J. Schneeberg and Cynthia M. Smith	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Nattera Land, Inc.	Upper Peninsula Power Company	Ontonagon	Michigan	6/23/2009	200901169	

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		Upper Peninsula Power Company	Robert J. Welker, Sr. and Carol A. Welker	Ontonagon	Michigan	8/4/2011	201101435	
		Joseph W. Lett Jr. (Affiant, on behalf of Upper Peninsula Power Company)		Ontonagon	Michigan	8/26/2013	201301411	
		Surveyor Affidavit of Clarification		Ontonagon	Michigan	9/13/2013	201301560	
		Upper Peninsula Power Company (Plaintiff)	Jill Lannet, James E. Rein, and Linda S. Rein (Defendants)	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
7.2.3.1.11	Chatham Substation	Woodrow A. Anderson and Edith I. Anderson	Upper Peninsula Power Company	Alger	Michigan	10/13/1976	96	79
		Survey Certificate		Alger	Michigan	10/13/1976	96	80
7.2.3.1.12	Cisco Dam	Marathon Paper Mills Company	Copper District Power Company	Gogebic	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Upper Peninsula Energy Corporation	Gogebic	Michigan	Not Recorded	Not Recorded	Not Recorded
		Certificate of Survey		Gogebic	Michigan	Not Recorded	Not Recorded	Not Recorded
7.2.3.1.15	Delta Service Center	Engineered Machined Products, Inc.	Upper Peninsula Power Company	Delta	Michigan	12/18/2008	934	625
7.2.3.1.16	Delta Substation	Semer Land Company	Upper Peninsula Power Company	Delta	Michigan	5/16/1979	268	549
7.2.3.1.17	Eagle Mills Substation	Northview Company, LLC	Upper Peninsula Power Company	Marquette	Michigan	9/30/2003	2003R-00879	
7.2.3.1.18	Elevation Substation	Quincy Mining Company	Upper Peninsula Power Company	Houghton	Michigan	4/21/1969	11	374

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		Glad Tidings Assembly of God	Upper Peninsula Power Company	Houghton	Michigan	8/20/2003	162	190
		Michael A. Lahti and Sharon A. Lahti	Upper Peninsula Power Company	Houghton	Michigan	8/20/2003	162	188
7.2.3.1.19	Escanaba 1	Escanaba Paper Company	Upper Peninsula Power Company	Delta	Michigan	4/23/1997	476	653
		Escanaba Paper Company	Upper Peninsula Power Company	Delta	Michigan	9/23/2014	1114	444
7.2.3.1.20	Escanaba 3	Escanaba Paper Company	Upper Peninsula Power Company	Delta	Michigan	12/11/2000	579	791
		Escanaba Paper Company	Upper Peninsula Power Company	Delta	Michigan	4/23/1997	476	653
7.2.3.1.21	Escanaba 4-Boney Falls	Escanaba Paper Company	Upper Peninsula Power Company	Delta	Michigan	4/23/1997	476	653
		Upper Peninsula Power Company	Naterra Land, Inc.	Delta	Michigan	1/4/2006	832	685
		Naterra Land, Inc.	Upper Peninsula Power Company	Delta	Michigan	6/22/2009	959	465
		Plum Creek Land Company	Upper Peninsula Power Company	Delta	Michigan	12/22/2011	1032	811
		Thomas J. Berthiaume Sr.	Upper Peninsula Power Company	Delta	Michigan	7/11/2013	1084	158
7.2.3.1.22	Escanaba Office	Upper Michigan Power & Light Company	Upper Peninsula Power Company	Delta	Michigan	5/6/1958	191	388
		Upper Peninsula Power Company	Family Life Center	Delta	Michigan	4/21/2016	1155	830
7.2.3.1.24	Forsyth Substation	Dorothy M. Dahlstrom and Richard C. Dahlstrom	Upper Peninsula Power Company	Marquette	Michigan	9/17/1994	349	887
		Dorothy M. Dahlstrom and Richard C. Dahlstrom	Upper Peninsula Power Company	Marquette	Michigan	2/26/1985	351	562

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7.2.3.1.25	Freeman Line	United States Steel Corporation	Upper Peninsula Power Company	Marquette	Michigan	12/2/1958	230	481
7.2.3.1.26	Freeman Substation	Marquette and Huron Mountain Railroad Company	Upper Peninsula Power Company	Marquette	Michigan	9/9/1976	317	753
7.2.3.1.28	Gladstone Substation	City of Gladstone	Upper Peninsula Power Company	Delta	Michigan	11/12/1987	311	53
		City of Gladstone	Upper Peninsula Power Company	Delta	Michigan	3/4/1992	376	832
7.2.3.1.30	Gwinn Right of Way	Leslie J. Plimpton and Cecile Plimpton	Upper Peninsula Power Company	Marquette	Michigan	1/17/1985	351	196
		Sylvester F. Barbieri and Cecile S. Barbieri	Upper Peninsula Power Company	Marquette	Michigan	11/26/1994	350	719
		Gwinn Twin Lakes, Inc.	Upper Peninsula Power Company	Marquette	Michigan	10/11/1984	350	220
		Upper Peninsula Power Company	American Transmission Company	Marquette	Michigan	7/13/2001	441	402
7.2.3.1.31	Gwinn Substation	O'Dovero Properties	Upper Peninsula Power Company	Marquette	Michigan	9/9/2003	455	418
7.2.3.1.32	Henry St Substation - Huron	Copper Range Company	Upper Peninsula Power Company	Houghton	Michigan	Information Not Available	Information Not Available	143
7.2.3.1.33	Hoist Basin East_AGMT	The State of Michigan	Upper Peninsula Power Company	Marquette	Michigan	Not Recorded	Not Recorded	Not Recorded
7.2.3.1.34	Hoist Hydro	Cliffs Electric Service Company	Upper Peninsula Power Company	Alger	Michigan	2/18/1988	124	302
		Cliffs Electric Service Company	Upper Peninsula Power Company	Marquette	Michigan	2/18/1988	363	949
		Longyear Realty Corporation	Upper Peninsula Power Company	Marquette	Michigan	6/21/2001	440	730



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		Upper Peninsula Power Company	HBELHA Corp.	Marquette	Michigan	6/21/2001	440	731
		Upper Peninsula Power Company	Cary Gottlieb and Carol Gamber	Marquette	Michigan	1/10/2002	446	233
		Upper Peninsula Power Company	Robert J. Sansom and Dorilla A. Sansom	Marquette	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Paul Balconi	Marquette	Michigan	8/8/2012	2012R-09207	
7.2.3.1.36	Iron river Service Center	James A. Manning and Evelyn E. Manning	Upper Peninsula Power Company	Iron	Michigan	7/30/1992	262	34
		First of America Bank - Iron County	Upper Peninsula Power Company	Iron	Michigan	11/8/1983	218	192
7.2.3.1.38	Ishpeming Service Center	Hematite Development Corporation	Upper Peninsula Power Company	Marquette	Michigan	6/19/1974	304	363
		Upper Peninsula Power Company	City of Ishpeming	Marquette	Michigan	Not Recorded	Not Recorded	Not Recorded
7.2.3.1.39	Ishpeming South	DLC Leasing, LLC	Upper Peninsula Power Company	Marquette	Michigan	9/27/2017	2017R-09665	
7.2.3.1.40	Ishpeming Steamplant Site	City of Ishpeming	Upper Peninsula Power Company	Marquette	Michigan	3/19/2008	Information Not Available	Information Not Available
7.2.3.1.41	Keweenaw Substation	Lake Superior Land Company	Upper Peninsula Power Company	Keweenaw	Michigan	8/11/1988	11	10
7.2.3.1.42	L'Anse Substation	The Celotex Corporation	Upper Peninsula Power Company	Baraga	Michigan	Information Not Available	Information Not Available	Information Not Available
		BPB Manufacturing, Inc. f/k/a BPB Acquisition, Inc.	Upper Peninsula Power Company	Baraga	Michigan	6/13/2003	43	173

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7.2.3.1.43	Laurium Pole Storage	W. H. Shimonek and Violet C. Shimonek	Upper Peninsula Power Company	Houghton	Michigan	12/23/1966	10	139
7.2.3.1.44	Lincoln Substation	Nova Land Company	Upper Peninsula Power Company	Iron	Michigan	10/11/1989	245	471
7.2.3.1.46	M-38	Ellen Sarya Halonen	Upper Peninsula Power Company	Baraga	Michigan	Information Not Available	Information Not Available	Information Not Available
		Ronald L. Sarya	Upper Peninsula Power Company	Baraga	Michigan	9/14/1972	5	257
		John Elmer Knuttila and Bernice A. Knuttila and Jacob Niemisto and Lydia Maria Niemisto	Upper Peninsula Power Company	Baraga	Michigan	Information Not Available	Information Not Available	Information Not Available
7.2.3.1.47	Marquette Corporate Office	D. D. Holdings	Upper Peninsula Power Company	Marquette	Michigan	4/1/2015	2015R-03450	
7.2.3.1.48	Masonville Substation-1	Bernard Krueger and Wesley Osmond	Upper Peninsula Power Company	Delta	Michigan	8/4/2017	1190	923
7.2.3.1.49	Masonville Substation	Ronald L. Strait and Dianne Oja Strait	Upper Peninsula Power Company	Delta	Michigan	2/7/1989	323	2
		Kris S. Peterson	Upper Peninsula Power Company	Delta	Michigan	11/2/1983	281	585
		Kris S. Peterson	Upper Peninsula Power Company	Delta	Michigan	1/9/1984	282	234
7.2.3.1.50	Misc RR Right of Way	Eino E. Keto and Elaine Victoria Keto	Upper Peninsula Power Company	Marquette	Michigan	3/22/1972	290	237

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		Harry Hansen and Agnes J. Hansen	Upper Peninsula Power Company	Marquette	Michigan	3/22/1972	290	235
		Lake Superior & Iphpeming Railroad Company	Upper Peninsula Power Company	Marquette	Michigan	3/29/1983	344	194
		Upper Peninsula Power Company	State of Michigan	Alger	Michigan	10/5/1992	139	131
		Upper Peninsula Power Company	American Transmission Company	Marquette	Michigan	7/13/2001	441	398
7.2.3.1.51	MTU Substation	The City of Houghton	Upper Peninsula Power Company	Houghton	Michigan	3/27/2001	153	945
7.2.3.1.52	Munising Line	Richard V. Sorensen and Carol E. Sorensen	Upper Peninsula Power Company	Marquette	Michigan	3/29/1983	344	193
7.2.3.1.53	Munising Office	Michigan Gas and Electric Company of Three Rivers	Upper Peninsula Power Company	Schoolcraft, Alger and Marquette	Michigan	Not Recorded	Not Recorded	Not Recorded
7.2.3.1.54	Munising Radio Site	Bernard L. Massey and Mildred Massey	Upper Peninsula Power Company	Alger	Michigan	2/18/1963	68	228
7.2.3.1.55	Munising Substation	Lake Superior & Iphpeming Railroad Company	Upper Peninsula Power Company	Alger	Michigan	9/9/1969	78	357
		The Cleveland-Cliffs Iron Company	Upper Peninsula Power Company	Alger	Michigan	9/9/1969	78	360
		Lake Superior & Iphpeming Railroad Company	Upper Peninsula Power Company	Alger	Michigan	1/17/1989	127	438
		Edwin L. Myler, Charles H. Stark	Upper Peninsula Power Company	Alger	Michigan	12/12/1984	116	88

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		and Robert Hamilton						
		George A. Freeman, Trustee	Upper Peninsula Power Company	Alger	Michigan	1/16/1985	116	240
		Lake Superior & Ipheming Railroad Company	Upper Peninsula Power Company	Alger	Michigan	1/16/1985	116	242
		Edward F. O'Boyle and Beryl M. O'Boyle	Upper Peninsula Power Company	Alger	Michigan	6/21/1984	114	547
		Kimberly Clark	Upper Peninsula Power Company	Alger	Michigan	1/6/1992	136	322
7.2.3.1.56	Old Arnold Substation	Joan M. DeShambo Johnson	Upper Peninsula Generating Company	Marquette	Michigan	10/1/1981	339	546
		William R. DeShambo	Upper Peninsula Generating Company	Marquette	Michigan	10/1/1981	339	548
		Jerome G. Johnson	Upper Peninsula Generating Company	Marquette	Michigan	6/9/1982	341	689
7.2.3.1.57	Old Freeman Line	Marquette and Huron Mountain Railroad Company	Upper Peninsula Power Company	Marquette	Michigan	9/9/1976	317	753
7.2.3.1.58	Ontonagon Substation-Service Center	Lloyd W. Heard, Administrator of the Estate of James H. Heard, Deceased	Copper District Power Company	Ontonagon	Michigan	1/8/1942	25	587
7.2.3.1.60	Osceola Substation	UOP, Inc.	Upper Peninsula Power Company	Houghton	Michigan	8/7/1981	69	87
		Upper Peninsula Power Company	Paul J. Baroni and Sandra J. Baroni	Houghton	Michigan	8/22/2007	2007R-03386	

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7.2.3.1.61	Perch Lake Substation	Northern Michigan Land Company, LLC	Upper Peninsula Power Company	Marquette	Michigan	1/20/2004	2004R-00721	
7.2.3.1.62	Portage Generating Substation	Copper Range Company	Upper Peninsula Power Company	Houghton	Michigan	2/28/1973	33	611
		Michael Messner, Inc., Copper Range Company, Upper Peninsula Power Company and Clarence G. Hocking and Diana M. Hocking	Michael Messner, Inc., Copper Range Company, Upper Peninsula Power Company and Clarence G. Hocking and Diana M. Hocking	Houghton	Michigan	6/14/1974	39	199
7.2.3.1.63	Prickett Hydro	Wisconsin Michigan Power Company	Baraga County Light and Power Company	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Walter S. Prickett	Baraga County Light and Power Company	Houghton	Michigan	12/5/1929	123	113
		Walter S. Prickett	Baraga County Light and Power Company	Houghton	Michigan	10/27/1930	118	530
		Walter S. Prickett	Baraga County Light and Power Company	Houghton	Michigan	12/31/1930	118	581
		Upper Peninsula Power Company	Joyce Barna	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Richard C. Blough and Jeannine Blough	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Daniel R. Burke and Sheila M. Burke	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded

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		Upper Peninsula Power Company	Kenneth J. Chandanaïs and Richard Supina	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Thomas P. Cole	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Daniel N. Haas and Jill Haas	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Joseph Lishinski, Stephen Lishinski and Kim Reed	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Geraldine Lucchesi and Michael Lucchesi	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	James W. Mayo	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Steven C. Hadden and Sue A. Hadden	Houghton	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Northern Land and Sales II, LLC	Houghton	Michigan	2/17/2009	2009R-00712	
		Upper Peninsula Power Company	Northern Land and Sales II, LLC	Baraga	Michigan	2/17/2009	2009	741
7.2.3.1.66	Silver Lake	USX Corporation	Upper Peninsula Power Company	Marquette	Michigan	2/6/1991	378	321
		Escanaba Paper Company	Upper Peninsula Power Company	Marquette	Michigan	1/7/2002	446	186
7.2.3.1.67	Soo Line	Soo Line Railroad Company	Upper Peninsula Power Company	Delta	Michigan	8/24/1990	355	54
7.2.3.1.69	Trans Line 606	Mead Realty Group, Inc.	Upper Peninsula Power Company	Delta	Michigan	2/15/1992	360	959
		Upper Peninsula Power Company	American Transmission Company LLC	Delta	Michigan	7/16/2001	602	433
7.2.3.1.71	Trans Line Wells Township	Bichler Gravel & Concrete Company	Upper Peninsula Power Company	Delta	Michigan	1/23/1986	292	35

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		Upper Peninsula Power Company	American Transmission Company LLC	Delta	Michigan	7/16/2001	602	433
7.2.3.1.72	Victoria Dam	St. Mary's Canal Mineral Land Company	Northern Acquisition Company	Ontonagon	Michigan	7/25/1930	15	476
		T. O. Pechauer, A/O James Walsh, Catherine Walsh O'Neill and Mary Walsh	Upper Peninsula Power Company	Ontonagon	Michigan	12/19/1969	62	259
		Patrick Walsh and Mary Walsh, James H. Walsh, Joanna Walsh, Bridget Walsh and Elizabeth Walsh	Northern Acquisition Company	Ontonagon	Michigan	11/26/1929	13	482
		Patrick Walsh and Mary Walsh, James H. Walsh, Joanna Walsh, Bridget Walsh and Elizabeth Walsh	Northern Acquisition Company	Ontonagon	Michigan	11/26/1929	14	107
		Victoria Copper Mining Company	Northern Acquisition Company	Ontonagon	Michigan	11/26/1929	15	348
		Palms Book Land Company	Northern Acquisition Company	Ontonagon	Michigan	8/18/1929	13	522
		John Garvin and Emma Garvan and John Garvin as Attorney-in-Fact for Emma Garvin	Copper District Power Company	Ontonagon	Michigan	2/4/1932	16	488

<b>Data Room Reference</b>	<b>File Title</b>	<b>Grantor</b>	<b>Grantee</b>	<b>County</b>	<b>State</b>	<b>Recording Date</b>	<b>Liber/ Instrument No.</b>	<b>Page</b>
		Upper Peninsula Power Company	Bernard L. Maxfield, Douglas C. Miilu, Walter Smith, Howard J. Walters and James D. Walters	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Robert A. Green and Darlene Green	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Wade Mannikko, Einard Mannikko and Alfred Chamberlain	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
		Upper Peninsula Power Company	Northern Land and Sales II, LLC	Ontonagon	Michigan	2/12/2009	2009-00213	
7.2.3.1.73	Warden Ash Site	Larry Brogan and Kim Juntunen	Upper Peninsula Power Company	Baraga	Michigan	2/19/2003	42	542
		American Can Company	Upper Peninsula Power Company	Baraga	Michigan	11/2/1959	69	153
		Village of L'Anse	Upper Peninsula Power Company	Baraga	Michigan	4/6/1993	27	404
7.2.3.1.75	Wedtec Substation	Edmond J. Tousignant, Jr.	Upper Peninsula Power Company	Ontonagon	Michigan	8/19/1964	52	220
		Upper Peninsula Power Company	Hoerner Waldorf Corporation	Ontonagon	Michigan	Not Recorded	Not Recorded	Not Recorded
7.2.3.1.76	West Houghton Service Center	Bosch Brewing Company	Upper Peninsula Power Company	Houghton	Michigan	Information Not Available	Information Not Available	633
		Copper Range Company	Upper Peninsula Power Company	Houghton	Michigan	1/22/1980	62	531
		Upper Peninsula Power Company	American Transmission Company	Houghton	Michigan	8/27/2001	155	481
7.2.3.1.77	White Pine Substation	Copper Range Company	Upper Peninsula Power Company	Ontonagon	Michigan	6/26/1984	82	532



<b>Data Room Reference</b>	<b>File Title</b>	<b>Grantor</b>	<b>Grantee</b>	<b>County</b>	<b>State</b>	<b>Recording Date</b>	<b>Liber/ Instrument No.</b>	<b>Page</b>
7.2.3.1.78	Winona Substation	Wisconsin Electric Power Company	Upper Peninsula Power Company	Houghton	Michigan	6/28/1995	131	297
N/A	Ewen Street Property	Hector McRae and Helen McRae	Upper Peninsula Power Company	Ontonagon	Michigan	11/5/1970	64	176

(b)

1. Lease dated August 17, 2006, by and between McClure Basin Association, as lessor, and UPPCO, as lessee, for a parcel of land in the NW quarter of Section 15, Township 48 North, Range 26 West, Township of Negaunee, County of Marquette, State of Michigan, as more particularly described in the lease.

(g)

SITE	RIVER	UNITS	TOTAL MW	OPERATING MODE	HAZARD CLASSIFICATION	HEAD	INSTALLATION DATE	RESERVOIR SIZE	RESERVOIR STORAGE
<b>SOUTHERN REGION</b>									
<b>Gladstone</b> Combustion Turbine 11 Delta Ave Gladstone, MI 49837 Phone: (906)428-4335	NA	1	22.6	Emergency	NA	NA	1988 (moved to current location)	NA	NA
<b>Dam No. 1</b> Hydro 6858 Dam 17.15 Rd Gladstone, MI 49837 Phone: (906)789-2594	Escanaba	3	1.7 Unit 1-610 kw Unit 2-480 kw Unit 3-610 kw	Run-of-River	Low	25	1907	75 acres	375 a-ft
<b>Dam No. 3</b> Hydro 5593 CTY 420 21st Rd Gladstone, MI 49837 Phone: (906)482-2390	Escanaba	2	2.5 Unit 1-1250 kw Unit 2-1250 kw	Run-of-River	High	29	1915	182 acres	1,100 a-ft
<b>Dam No. 4 (Boney Falls)</b> Hydro 11970 Boney Falls H Rd Cornell, MI 49818 Phone: (906)384-0102	Escanaba	3	4.74 Unit 1-1360 kw Unit 2-1700 kw Unit 3-1680 kw	Run-of-River	High	49	1920	220 acres	2,300 a-ft
<b>EASTERN REGION</b>									
<b>Silver Lake</b> Storage Reservoir (Dead River Project) 46°38'57.9"N 87°49'56.9"W	Dead	NA	NA	Regulation	High	39	1912	1,220 acres	28,000 a-ft
<b>Hoist</b> Hydro Hoist Dam Rd Negaunee, MI 49856 Phone: (906)475-4909	Dead	2	3.4 Unit 2-1400 kw Unit 3-2000 kw	Regulation	High	142	1941 (last unit installed)	2,429 acres	31,563 a-ft
<b>McClure</b> Hydro 800 Forestville Rd Marquette, MI 49855 Phones: powerhouse (906)225-2812 dam (906)475-4514	Dead	2	8.00 Unit 1-4000 kw Unit 2-4000 kw	Regulation	High	424	1919	95 acres	1,870 a-ft
<b>WESTERN REGION</b>									
<b>Portage</b> Combustion Turbine 16626 Academy Rd South Range, MI 49963 Phone: (906)482-7313	NA	1	22.6	Peaking	NA	NA		NA	NA
<b>Prickett</b> Hydro Prickett Dam Rd Pelkie, MI 49958 Phone: (906)338-2801	Sturgeon	2	2.2 Unit 1-1100 kw Unit 2-1100 kw	Run-of-River	High	54	1931	733 acres	6,500 a-ft
<b>Victoria</b> Hydro Victoria Dam Rd Rockland, MI 49960 Phone: (906)886-2637	Ontonagon	2	12.0 Unit 1-6000 kw Unit 2-6000 kw	Run-of-River	High	214	1931	250 acres	10,300 a-ft
<b>Bond Falls</b> Storage Reservoir Bond Falls Rd Paulding, MI 46°24'29.8"N 89°07'47.6"W	Ontonagon	NA	NA	Regulation	High	25	1938	2,160 acres	36,000 a-ft
<b>Bergland Dam</b> Storage Reservoir 17213 East Shore Rd Bergland, MI 49910 Phone: NA	Ontonagon	NA	NA	Regulation	Low	4	1944	14,080 acres	32,250 a-ft
<b>Cisco Dam</b> Storage Reservoir Cisco Lake Rd Watersmeet, MI 49969 46°15'11.0"N 89°27'08.0"W	Ontonagon	NA	NA	Regulation	Low	11	1931	4,025 acres	10,500 a-ft

Section 3.9

Environmental Matters

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### Section 3.10

#### Contracts

[REDACTED]

■

■

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

■

[REDACTED]  
[REDACTED]  
[REDACTED]  
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[REDACTED]

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[REDACTED]  
[REDACTED]

■

[REDACTED]  
[REDACTED]









### Section 3.11

## Insurance

Category	Item	Value	Unit	Year	Source
Agriculture	Wheat	1200	kg	2020	FAO
	Rice	800	kg	2020	FAO
Livestock	Cattle	500	kg	2020	FAO
	Poultry	300	kg	2020	FAO
Forestry	Timber	200	kg	2020	FAO
	Non-timber	100	kg	2020	FAO
Fishing	Seafood	150	kg	2020	FAO
	Wildlife	50	kg	2020	FAO
Manufacturing	Textiles	100	kg	2020	FAO
	Metals	50	kg	2020	FAO
Services	Transport	80	kg	2020	FAO
	Healthcare	30	kg	2020	FAO
Education	Primary	20	kg	2020	FAO
	Secondary	10	kg	2020	FAO
Energy	Coal	10	kg	2020	FAO
	Natural Gas	5	kg	2020	FAO
Environment	Water	5	kg	2020	FAO
	Air Quality	2	kg	2020	FAO

[illegible]

## Section 3.12

### Litigation

1. *UPPCO v. Village of L'Anse*: This case arose from the decision of the Village of L'Anse (the "Village") not to issue a new franchise to UPPCO after UPPCO's previous 30-year franchise expired in July 2018, in part because the village has its own village-owned electric utility. UPPCO claimed that the Village's denial of the franchise renewal amounted to an attempt to take or convert UPPCO's existing utility customers by unlawful means and without UPPCO's consent. UPPCO filed its initial complaint on August 1, 2018, alleging: (1) injunctive relief—Village denying franchise, (2) injunctive relief—severing live electrical lines, (3) trespass, (4) declaratory and injunctive relief—General Law Village Act, (5) impairment of contract, (6) unlawful forcible entry and detainer, (7) tortious interference with business relationship, (8) unfair competition, (9) violation of Michigan Antitrust Reform Act—unlawful contract, combination, or conspiracy, (10) violation of Michigan Antitrust Reform Act—unlawful monopoly, and (11) civil conspiracy. The defendants moved for summary disposition and the trial court granted defendants' motions. UPPCO appealed the trial court's decision and, on November 12, 2020, the State of Michigan Court of Appeals affirmed the trial court's opinion and order granting defendants' motions for summary disposition. On December 24, 2020, UPPCO filed an Application for Leave to Appeal with the State of Michigan in the Supreme Court; such appeal has not yet been granted.
2. The items identified in Section 3.9 are incorporated herein by reference.

### Section 3.13

#### Employee Matters

(a)

Upper Peninsula Power Company Employee Benefit Plan, which provides the following benefit components:

- Medical – Blue Cross Blue Shield of Michigan
  - High Deductible Health Plan
    - With HSA – Health Equity
  - PPO Plan
- Dental – Delta Dental of Michigan
- Vision – EyeMed
  - Basic
  - Premier
- Employee Assistance Program – New Directions
- Wellness Program – Blue Cross Blue Shield of Michigan
- COBRA – Kushner & Associates
- Basic Life and AD&D – Prudential
- Voluntary Life and AD&D – Prudential
- Short Term Disability – Prudential
- Long Term Disability – Prudential
- Flex Spending – Kushner & Company
  - Limited Use Medical
  - Regular Medical
  - Dependent Care
- Upper Peninsula Power Company Section 125 Cafeteria Plan
- Health Insurance Opt-Out Stipend: Cash In Lieu of Benefits policy
- Tuition Assistance policy
- Adoption Assistance policy
- Relocation Reimbursement policy
- Cell Phone Reimbursement policy
- Safety Shoe Reimbursement policy
- Administrative Employee Retirement Policy, effective as of June 24, 2020
- Upper Peninsula Power Company Administrative 401(k) Retirement Plan
- Upper Peninsula Power Company Union 401(k) Retirement Plan
- Upper Peninsula Power Company Pension Restoration and Supplemental Retirement Plan
- Upper Peninsula Power Company Supplemental Retirement Plan for a Select Group of Management Plans (SERP)
- Administrative Retiree Medical and Dental Plan
- Non-Administrative Retiree Medical and Dental Plan
- Postretirement Life Insurance Plan
- Upper Peninsula Power Company Administrative VEBA Trust
- Upper Peninsula Power Company Union VEBA Trust
- Upper Peninsula Power Company Retirement Plan, as amended effective January 1, 2015, January 1, 2017 and January 1, 2019.
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(i)(iii)

N/A.

(i)(iv)

[REDACTED]

[REDACTED]

(i)(v)

[REDACTED]

(i)(vi)

N/A.

(j)

- Retiree Medical Pre-65 until 12/31/20 – BCBSM PPO Plan
  - Administrative Employee Retiree Medical Contribution Credit Plan (“RMCC”)
  - Union Member VEBA
- Retiree Medical Pre-65 as of 1/1/21 – Humana PPO Plan
  - Administrative Employee RMCC
  - Union Member VEBA
- Retiree Medical Post-65 until 12/31/20
  - Administrative Employee RMCC – BCBSM Medicare Advantage Plan
  - Union Member VEBA – BCBSM Medicare Advantage Plan
  - Closed Group VEBA – United American Plan w/Express Scripts Drug Coverage
- Retiree Medical Post-65 as of 1/1/21
  - Administrative Employee RMCC – Humana Medicare Advantage Plan w/Humana Drug Coverage
  - Union Member VEBA – Humana Medicare Advantage Plan w/Humana Drug Coverage
  - Closed Group VEBA – Humana Medicare Advantage Plan w/Humana Drug Coverage
- Retiree Life Insurance – Prudential
  - Closed Group
- Retiree Vision
  - 100% Retiree Paid
- Retiree Dental – Delta Dental
  - Closed Group
- Administrative Employee Retirement Policy, effective as of June 24, 2020

(m)

Agreement between UPPCO and Local Union No. 510 International Brotherhood of Electrical Workers AFL-CIO effective April 13, 2018 – April 15, 2023.

### **Section 3.14**

#### **Legal Compliance**

Sections 3.9, 3.16 and 3.21(1) are incorporated herein by reference.

## Section 3.16

### Permits

[REDACTED]

[REDACTED]



**Section 3.17**

**Energy Regulatory Matters**

(b)

1. The items identified in Section 3.9 are incorporated herein by reference.

### **Section 3.18**

#### **Affiliate Contracts**

1. Board Observer Agreement dated as of October 15, 2014 by and between Swiss Life Funds (Lux) Global Infrastructure Opportunities S.C.A., SICAV – SIF and the Company.
2. Board Observer Agreement dated as of October 15, 2014 by and between Swiss Life Funds (Lux) Global Infrastructure Opportunities S.C.A., SICAV – SIF and UPPCO.

### **Section 3.19**

#### **Intellectual Property**

(a)

##### **Trademarks:**

1. Service Mark: UPPER PENINSULA POWER COMPANY
  - a. Registration No.: 4639830
2. Service Mark: UPPCO & design on the Principle Register
  - a. Registration No.: 4568314
3. Service Mark: UPPCO on the Principle Register
  - a. Registration No.: 4568312

##### **Domains:**

1. UPPCO.COM
2. UPPCO.CO
3. UPPCO.MOBI
4. UPPCO.biz
5. UPPCO.ORG
6. UPPCO.US
7. UPPCO.SITE

**Section 3.20**

**Computer Systems**

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**Section 3.21**

**Data Privacy**

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

### Section 3.23

## Bank Accounts

[illegible]



## Section 6.1

### Conduct of Business Prior to the Closing

1. The settlement, compromise or discharge of the matter described in Section 3.12.
2. The selection of respondents to the Request for Proposal, issued on October 5, 2020 for the Solar Generation Projects – EPC and Partial Ownership (the “Solar EPC RFP”); provided, that Seller shall, and shall cause UPPCO to, keep Buyer reasonably informed with respect to UPPCO’s progress in selecting a respondent, consider in good faith any reasonable comments provided by Buyer and provide notice to Buyer at least seven (7) days prior to the date UPPCO selects a respondent.
3. The award of a contract and the negotiation and entry into of a Solar Engineering, Procurement and Construction Agreement and other Contract Documents (as defined and described in the Solar EPC RFP); provided, that Seller shall, and shall cause UPPCO to, keep Buyer reasonably informed with respect to UPPCO’s progress in negotiating a Solar Engineering, Procurement and Construction Agreement, consider in good faith any reasonable comments provided by Buyer and provide notice to Buyer at least seven (7) days prior to the date UPPCO enters into a Solar Engineering, Procurement and Construction Agreement.
4. The selection of respondents to the Request for Proposal, issued on October 5, 2020 for the Renewable Generation Projects – Power Purchase Agreement (the “Renewable PPA RFP”); provided, that Seller shall, and shall cause UPPCO to, keep Buyer reasonably informed with respect to UPPCO’s progress in selecting a respondent, consider in good faith any reasonable comments provided by Buyer and provide notice to Buyer at least seven (7) days prior to the date UPPCO selects a respondent.
5. The award of a contract and the negotiation and entry into of a Renewable Generation Power Purchase Agreement and other Contract Documents (as defined and described in the Renewable PPA RFP); other actions described in the Renewable PPA FRP; and such other actions as are reasonably necessary to effect the foregoing; provided, that Seller shall, and shall cause UPPCO to, keep Buyer reasonably informed with respect to UPPCO’s progress in negotiating a Renewable Generation Power Purchase Agreement, consider in good faith any reasonable comments provided by Buyer and provide notice to Buyer at least seven (7) days prior to the date UPPCO enters into a Renewable Generation Power Purchase Agreement.
6. Applications and filings to the MPSC associated with general rate case, tariff and/or other cost recovery matters, including but not limited to submissions seeking a Certificate of Necessity, or in respect of the implementation of its IRP, pertaining to the Solar EPC RFP or the Renewable PPA RFP referenced above; provided, that Seller shall, and shall cause UPPCO to, keep Buyer reasonably informed with respect to any such applications and filings that are material to the Business, consider in good faith any reasonable comments provided by Buyer and provide notice to Buyer at least seven (7) days prior to the date UPPCO submits any such applications and filings that are material to the Business.
7. Stakeholder engagement initiatives and sub initiatives that are currently being facilitated by the MPSC, as well as associated filings, under the MI Power Grid initiative (which is discussed generally in MPSC Case No. U-20645).



8. In connection with COVID-19, the suspension (whether mandatory or voluntary) of customer utility disconnections and the settlement, compromise or discharge of customer accounts.

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**BUYER DISCLOSURE SCHEDULE**

**TO**

**STOCK PURCHASE AGREEMENT**

**dated as of January 22, 2021**

**by and between**

**LAKE AIV, LP**

**as Seller**

**and**

**Axium UP Holdings LLC**

**as Buyer**

---

## INTRODUCTION

Reference is made to that certain Stock Purchase Agreement (the “Agreement”), dated as of January 22, 2021, by and between Lake AIV, LP, a Delaware limited partnership (the “Seller”), and Axiom UP Holdings LLC, a Delaware limited liability company (the “Buyer”).

This disclosure schedule (the “Buyer Disclosure Schedule”) is the Buyer Disclosure Schedule as defined in the Agreement. Unless otherwise defined herein, all capitalized terms used in this Buyer Disclosure Schedule shall have the respective meanings ascribed to such terms in the Agreement. Any matter which is disclosed pursuant to any Section of this Buyer Disclosure Schedule in such a way as to make reasonably apparent its relevance or applicability to any representations made elsewhere in the Agreement or to the information called for by any other Section of this Buyer Disclosure Schedule shall be deemed to be an exception to such representations and to be disclosed with respect to all Sections of the Agreement and the Buyer Disclosure Schedule notwithstanding the omission of a reference or cross-reference thereto. No disclosure of any matter contained in this Buyer Disclosure Schedule (a) shall create an implication that such matter meets any standard of materiality, (b) represents a determination that such item or matter did not arise in the ordinary course of business, (c) shall be deemed or interpreted to expand the scope of Buyer’s representations and warranties, obligations, covenants, conditions or agreements contained in the Agreement, (d) shall constitute, or be deemed to constitute, an admission of liability or obligation regarding such matter, (e) represents a determination that the consummation of the transactions contemplated hereby requires the consent of any third party, or (f) constitutes, or shall be deemed to constitute, an admission to any third party concerning such item or matter (matters reflected in the Buyer Disclosure Schedule are not necessarily limited to matters required by the Agreement to be reflected in the Buyer Disclosure Schedule; such additional matters are set forth for informational purposes only and do not necessarily include other matters of a similar nature, nor shall the inclusion of any item be construed as implying that any such item is “material” for any purpose). Except as otherwise limited herein or in the Agreement, all information and disclosures contained herein are made as of the date of the related representation and warranty as set forth in the Agreement, and their accuracy is confirmed only as of that date and not at any time thereafter.

Headings contained in the Buyer Disclosure Schedule are for reference purposes only and shall not be deemed a part of the Agreement or the Buyer Disclosure Schedule or affect in any way the meaning or interpretation of the Agreement or the Buyer Disclosure Schedule.

The Buyer Disclosure Schedule is confidential. In disclosing the information set forth herein, the Buyer expressly does not waive any attorney-client privilege associated with any such information or any protection afforded by the work product doctrine with respect to any of the matters disclosed herein.

**Section 1.1-KB**

**Knowledge**

- [REDACTED]
- [REDACTED]
- [REDACTED]

[PLACEHOLDER FOR FILINGS IN OTHER JURISDICTIONS]

In the matter of the joint application of )  
**AXIUM UP HOLDINGS LLC and LAKE AIV, )**  
**L.P.,** for approval, pursuant to MCL 460.6q, for the )  
transfer of control of **UPPER PENINSULA )**  
**POWER COMPANY,** and related approvals. )  
\_\_\_\_\_)

Case No. U-20995

**DIRECT TESTIMONY AND EXHIBITS OF THIERRY VANDAL**

1 **Q1. PLEASE STATE YOUR NAME, BUSINESS RELATIONSHIP WITH THE JOINT**  
2 **APPLICANTS IN THIS PROCEEDING, AND BUSINESS ADDRESS.**

3 A1. My name is Thierry Vandal. I am the President of Axium Infrastructure US Inc. (“Axium  
4 US”), a direct subsidiary of Axium Infrastructure Inc. (“Axium Canada”), of which I am  
5 one of the Directors and one of the Investment Committee Members. Axium US is the sole  
6 manager of the joint applicant, Axium UP Holdings LLC (“Axium UP”), and the manager  
7 of the US country funds, AxInfra US LP (“AxInfra”) and AxInfra US (P-1) LP (“AxInfra  
8 P-1” and together with AxInfra, the “US Country Funds”), that will indirectly own Axium  
9 UP. My business address 527 Madison Avenue, 21<sup>st</sup> Floor, New York, NY 10022.

10 **Q2. PLEASE SUMMARIZE YOUR RESPONSIBILITIES AS PRESIDENT OF AXIUM**  
11 **US.**

12 A2. I have been leading Axium US since 2015. Over that time, I have been responsible for the  
13 overall strategic development of the company’s infrastructure assets portfolio, from initial  
14 engagements to closings, including long-term finance, construction, governance  
15 implementation, and asset management operations. I am also ultimately responsible for  
16 the day-to-day operations of Axium US.

1 **Q3. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**  
2 **PROFESSIONAL EXPERIENCE.**

3 A3. I hold a Bachelor of Civil Engineering from Polytechnique Montréal, and an MBA from  
4 HEC Montréal. The Université de Montréal awarded me an honorary doctorate in 2007  
5 and the Institut National des Sciences Appliqués (INSA) in Lyon, France, awarded me an  
6 honorary doctorate in 2012 to underscore my professional contribution to the energy sector.  
7 In 2012, I was recognized as the Canadian Energy Person of the Year by the Canadian  
8 Energy Council.

9  
10 I have over 30 years of experience in the North American power and utility industry. Prior  
11 to joining Axium US in 2015, I was the President and CEO of Hydro-Québec, one of North  
12 America's largest electric utility companies. Hydro-Québec serves over 4 million  
13 customers and operates over 35 GW of hydroelectric generation facilities. I joined Hydro-  
14 Québec in 1996 and served in various capacities until my appointment as President and  
15 CEO in 2005.

16  
17 I am currently a member of the board of directors of The Royal Bank of Canada and of TC  
18 Energy Corporation (previously TransCanada Corp). I am also a member of the  
19 International Advisory Board of HEC Montréal (Québec, Canada), and a governor emeritus  
20 and a member of the Principal's International Advisory Board at McGill University  
21 (Montréal, Québec, Canada). I am the past chairman of BioFuelNet Canada and of the  
22 Conference Board of Canada. Additional information is available in my resume, attached  
23 as Exhibit A-7 (TV-1).

**Q4. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

A4. I am testifying in support of the Joint Application filed by Axiom UP and Lake AIV in this docket. More specifically, my testimony is in support of Commission approval of the Proposed Transaction, as defined in the Joint Application and set forth in the Stock Purchase Agreement, dated January 22, 2021 between Lake AIV, L.P., as seller, and Axiom UP as buyer (the "SPA"), pursuant to 2008 PA 286, §6q, MCL 460.6q and Rules 301-303 of the Commission's Rules Governing Mergers and Acquisitions, Mich. Admin Code, R. 460.301-303. Mr. Paulo Arencibia and I will be providing testimony in support of Axiom UP with respect to the Joint Application. Together we will be addressing the following issues, as set forth in the governing statute and rules:

- Pursuant to MCL 460.6q(3)(a), a concise summary of the terms and conditions of the Proposed Transaction. See my testimony at A6.
- Pursuant to Mich. Admin Code, R 460.303(1)(a), the exact name and principal business addresses of Axiom UP. See my testimony at A7.
- Pursuant to Mich. Admin Code, R 460.303(1)(b), the names and contact information for persons authorized by Axiom UP to receive notices and communications regarding the Joint Application. See my testimony at A8.
- Pursuant to Mich. Admin Code, R 460.303(1)(c), a description of Axiom UP, including all business activities and jurisdictional real and personal property owned, operated, or controlled by Axiom UP and its parent companies. See my testimony at A9.



- 1           • Pursuant to Mich. Admin Code, R 460.303(1)(d), organizational charts depicting  
2           the acquiring entity's current and proposed post-transaction corporate structures.  
3           See my testimony at A10.
- 4           • Pursuant to Mich. Admin Code, R 460.303(1)(e), a description of the Proposed  
5           Transaction, including the identities of all the parties involved, the terms and  
6           conditions of the Proposed Transaction, and a detailed explanation of the reasons  
7           for entering into the transaction. See my testimony at A12.
- 8           • Pursuant to MCL 460.6q(3)(c), MCL 460.6q(7)(a)&(b), and Mich. Admin Code, R  
9           460.303(1)(f), a detailed description of the projected impact of the Proposed  
10          Transaction on customer rates and electric service. See my testimony at A13.
- 11          • Pursuant to MCL 460.6q(3)(b) and Mich. Admin Code, R 460.303(1)(g), all  
12          documents related to the Proposed Transaction together with copies of all other  
13          written instruments entered into or proposed to be entered into by the parties to the  
14          Proposed Transaction. See my testimony below at A14.
- 15          • Pursuant to Mich. Admin Code, R 460.303(1)(h) and MCL 460.6q(7)(e), a  
16          statement explaining the facts relied upon to demonstrate that the Proposed  
17          Transaction is consistent with the public interest, including a general explanation  
18          of the effect of the Proposed Transaction on competition and rates. See my  
19          testimony at A15.
- 20          • Pursuant to Mich. Admin Code, R 460.303(1)(m), a description of the capital  
21          structure of all parties before and after the closing of the Proposed Transaction,

1 including (i) the amounts and types of equity, (ii) the terms of preference stock,  
2 whether cumulative or participating, or on dividends or assets, or otherwise, (iii)  
3 the amount of bonds authorized and issued, describing each class separately and  
4 giving the date of issue, par value, rate of interest, date of maturity, and how  
5 secured, and (iv) other indebtedness, if any. See the testimony of Mr. Arencibia.

- 6 • Pursuant to Mich. Admin Code, R 460.303(1)(n), a description of Axium UP's  
7 commitment to maintain existing levels of corporate charitable contributions and  
8 community support after the closing of the Proposed Transaction. See my  
9 testimony at A16.

- 10 • Pursuant to Mich. Admin Code, R 460.303(1)(o), a description of the effect of the  
11 Proposed Transaction on the degree of risk assumed by utility customers for  
12 liabilities associated with activities that are not regulated by the Commission. See  
13 my testimony at A17.

- 14 • Pursuant to Mich. Admin Code, R 460.303(1)(p), a description of Axium UP's  
15 commitment to maintain existing offices located in Michigan. See my testimony  
16 at A18.

- 17 • Pursuant to Mich. Admin Code, R 460.303(1)(q), an explanation of whether Axium  
18 UP or any party to the Proposed Transaction intends to seek rate recovery of  
19 transaction costs, acquisition premiums, goodwill, or control premiums. See the  
20 testimony of Mr. Arencibia.

- 1           • Pursuant to Mich. Admin Code, R 460.303(1)(r), a detailed description of the effect  
2           of the Proposed Transaction on UPPCO's regulatory cost of capital. See the  
3           testimony of Mr. Arencibia.
- 4           • Pursuant to Mich. Admin Code, R 460.303(1)(t), a description of the effect of the  
5           Proposed Transaction on market power. See my testimony below at A19.
- 6           • Pursuant to Mich. Admin Code, R 460.303(1)(v), a description of any projected  
7           labor force reduction associated with the Proposed Transaction. See my testimony  
8           below at A20.
- 9           • Pursuant to Mich. Admin Code, R 460.303(1)(w), a description of any proposed  
10          safeguards for stabilizing wages and benefits associated with the Proposed  
11          Transaction. See my testimony below at A20.
- 12          • Pursuant to Mich. Admin Code, R 460.303(1)(y), a description of any new entities  
13          created to facilitate the Proposed Transaction. See my testimony below at A21.
- 14          • Pursuant to MCL 460.6q(7)(d), a discussion of whether or not the Proposed  
15          Transaction will significantly impair UPPCO's ability to raise necessary capital or  
16          maintain a reasonable capital structure. See the testimony of Mr. Arencibia.

17   **Q5. ARE YOU SPONSORING ANY EXHIBITS?**

18   A5. Yes, I am sponsoring the following exhibits, which were prepared by me or at my request  
19       or under my direction and supervision:

- 20          • Exhibit A-7 (TV-1), Resume of Thierry Vandal

- Exhibit A-8 (TV-2), Proposed Transaction Organizational Charts.
- Exhibit A-9 (TV-3), Select Axium Owned/Operated Energy Projects
- Exhibit A-10 (TV-4), Affiliate Services Agreement

**Q6. PLEASE PROVIDE A CONCISE SUMMARY OF THE TERMS AND CONDITIONS OF THE PROPOSED ACQUISITION.**

A6. The testimony of Mr. Neil accurately addresses this question from the seller's side, and provides a description of the SPA. I would add to that description the following information from Axium UP's perspective.

Axium UP is the proposed purchaser of 100% of the issued and outstanding equity interests of the Upper Peninsula Power Holding Company ("UPPHC"), which itself is owner of a 100% equity interest in the Upper Peninsula Power Company ("UPPCO"), under the SPA. Following the Proposed Transaction, the capital shares of UPPCO would continue to be held by UPPHC, which would itself be wholly owned and operated by Axium UP.

The Proposed Transaction is therefore a stock sale, which will leave UPPHC and UPPCO intact. For this reason, there are no anticipated state or local tax liabilities at the UPPCO or UPPHC levels associated with this proposed change in ownership, including no change in the deferred tax balances recorded on the books of UPPCO that inure to the benefit of UPPCO's customers. The Proposed Transaction will also have no effect on the employee pension fund.

The SPA contains commitments from Axium UP to help ensure that following the closing of the Proposed Transaction, UPPCO will, from the perspective of its customers, continue

1 to function as it did prior to closing and will provide the same level of service with the  
2 same workforce. Axiom UP has committed to maintaining the current office locations and  
3 centers of operations in the UP, as well as maintaining the same management team and  
4 structure. The transaction will therefore not affect the day-to-day experience of customers  
5 with UPPCO.

6  
7 The SPA contains assurances that post-closing, Axiom UP will maintain UPPCO's existing  
8 labor force, including a commitment that if any employee is terminated for any reason other  
9 than for cause within twelve months of the closing of the Proposed Transaction, then  
10 enhanced severance benefits will be provided, unless a collective bargaining agreement  
11 requires otherwise. With respect to existing union employees, Axiom UP has committed  
12 to honor all existing collective bargaining agreements entered into by UPPCO. Axiom UP  
13 has also agreed to UPPCO maintaining existing compensation and benefits arrangements  
14 (or substantially comparable compensation and benefits, in the aggregate, if changes are  
15 made) for a period of twenty-four months after closing of the Proposed Transaction.

16 **Q7. PLEASE PROVIDE THE EXACT NAME AND BUSINESS ADDRESS FOR THE**  
17 **ACQUIRING ENTITY.**

18 A7. Axiom UP's business address is: 527 Madison 21<sup>st</sup> Floor, New York, NY 10022

19 **Q8. PLEASE PROVIDE CONTACT INFORMATION FOR THE ACQUIRING**  
20 **ENTITIES' PERSONS AUTHORIZED TO RECEIVE NOTICES AND**  
21 **COMMUNICATIONS REGARDING THE JOINT APPLICATION, INCLUDING**  
22 **PHONE AND FAX NUMBERS, AND E-MAIL ADDRESSES.**

1 A8. The names, addresses, phone numbers, fax numbers, and email addresses of the persons  
2 authorized to receive on behalf of Axiom UP notices and communications regarding the  
3 Joint Application in this docket are as follows:

4 Tim Lundgren  
5 Varnum LLP  
6 201 North Washington Square  
7 Suite 910  
8 Lansing, MI 48933  
9 Tel: 616-336-6750  
10 Fax: 517-482-6937  
11 Email: tjlundgren@varnumlaw.com

12 Jonathan M.A. Melmed  
13 King & Spalding LLP  
14 1185 Avenue of the Americas  
15 New York, NY 10036  
16 Tel: 212-556-2344  
17 Email: jmelmed@kslaw.com

18 **Q9. PLEASE DESCRIBE THE BUSINESS ACTIVITIES AND JURISDICTIONAL**  
19 **REAL AND PERSONAL PROPERTY OWNED, OPERATED, OR CONTROLLED**  
20 **BY THE APPLICANT AND ITS PARENT COMPANIES.**

21 A9. Axiom UP is a wholly owned subsidiary of the US Country Funds managed by Axiom US.  
22 Axiom US, together with Axiom Canada, are independent infrastructure fund managers  
23 dedicated exclusively to long-term, buy-and-hold infrastructure investments. Our  
24 infrastructure fund is open-ended, which means we have no requirement to divest assets in  
25 a certain time frame, so we look for stable long-term investments. Axiom US and its  
26 affiliates manage an asset portfolio valued at about \$5.3 billion as of December 2020,  
27 comprising over 160 core infrastructure (utilities, transportation, social infrastructure)  
28 assets across the United States and Canada.

1 Among the affiliates of Axium US is Axium Infrastructure US, Inc., with which Axium  
2 UP intends to enter into an affiliate agreement for the provision of tax administration and  
3 reporting services. That affiliate agreement is attached as Exhibit A-10 (TV-4). Axium UP  
4 is aware of the Commission's Code of Conduct requirements and will ensure that any such  
5 affiliate agreements comply with those requirements and ultimately are to the benefit of  
6 UPPCO and its customers.

7 The energy infrastructure assets held by Axium US, Axium Canada, or affiliates includes  
8 electricity transmission, electricity generation and district energy operations, including an  
9 interest in a high-voltage transmission line that is under construction in Southern California  
10 and a fully operating electric transmission utility in West Texas; transportation assets,  
11 including roads and port container terminals; and typical social infrastructure assets, which  
12 include institutional facilities built and operated under long term public-private  
13 partnerships (P3's), such as student housing and Canadian regulated long-term care  
14 facilities. A selection of some energy projects owned or operated by Axium affiliates can  
15 be found on Exhibit A-9 (TV-3). A more complete list of Axium's infrastructure assets can  
16 be found on our website: <https://www.axiuminfra.com/portfolio-assets/?lang=en>. Should  
17 the Proposed Transaction be approved and consummated, UPPHC's facilities would be the  
18 first Michigan assets in Axium US's portfolio.

19 **Q10. PLEASE PROVIDE ORGANIZATIONAL CHARTS DEPICTING THE**  
20 **ACQUIRING ENTITY'S' CURRENT AND PROPOSED POST-TRANSACTION**  
21 **CORPORATE STRUCTURES.**

1 A10. Exhibit A-8 (TV-2) provides corporate organizational charts depicting current and  
2 proposed post-transaction structures. The organizational charts show that Axium UP is a  
3 wholly owned subsidiary of AxInfra UB Holding LLC, which is in turn owned by AxInfra  
4 US LP and AxInfra US (P-1) LP, which are affiliates of Axium US. Following the approval  
5 of the Proposed Transaction and its closing, UPPHC would be wholly owned by Axium  
6 UP. UPPHC would continue to be a dedicated parent company for UPPCO, which would  
7 continue to be its sole asset.

8 **Q11. HOW IS AXIUM US DIFFERENT FROM THE CURRENT OWNER, BASALT**  
9 **INFRASTRUCTURE?**

10 A11. Axium US is a fund that exists to make long-term investments in infrastructure and to hold  
11 those investments over the long term – typically for the life of the asset.<sup>1</sup> In contrast, Basalt  
12 Infrastructure is a limited duration infrastructure fund, as noted by Mr. Neil in his  
13 testimony. We believe that the long-term investment strategy of Axium US will provide  
14 additional continuity benefits to Michigan's Upper Peninsula and to UPPCO's customers,  
15 as well as access to an uncapped amount of capital if needed to fund future capital  
16 expenditures.

17 **Q12. PLEASE DESCRIBE THE PROPOSED TRANSACTION INCLUDING THE**  
18 **IDENTITY OF ALL THE PARTIES INVOLVED, THE TERMS AND**  
19 **CONDITIONS OF THE TRANSACTION, AND A DETAILED EXPLANATION OF**  
20 **THE REASONS FOR ENTERING INTO THE TRANSACTION.**

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<sup>1</sup> An example of this long-term strategy can be seen in Exhibit A-9 (TV-3), where the Ohio State University concession is a 50-year agreement.



1 A12. The testimony of Mr. Neil describes the Proposed Transaction, as set forth in the SPA,  
2 from the perspective of Lake AIV. A concise summary of the Proposed Transaction from  
3 the perspective of Axiom UP is provided in my testimony above at A6.

4 With respect to the identity of the parties involved in the Proposed Transaction, Mr. Neil's  
5 testimony addresses this question from the seller's side. With respect to the identity of the  
6 parties involved in the Proposed Transaction from the purchaser side, my testimony above  
7 at A6 should be responsive.

8 I also summarized above a number of the terms and conditions of the Proposed Transaction  
9 that would affect the ongoing operations of UPPCO if this Proposed Transaction is  
10 approved, including labor and benefits matters, continuity of service, and the locations of  
11 offices and operations. In all of these cases, it is the goal of Axiom UP to maintain the  
12 existing operations and structures currently in place so that UPPCO's customers and  
13 workforce are not adversely affected by the change in ownership.

14 Axiom UP's reasons for entering into the Proposed Transaction include the following:  
15 UPPCO represents a rare opportunity to make a significant, long-term investment in a fully  
16 regulated electric utility; UPPCO's commitment to making substantial investments in  
17 renewable generation, which is in line with the experience and goals of Axiom US; a strong  
18 history of excellent operating performance; and a strong history of building and  
19 maintaining collaborative relationships with stakeholders, including the Michigan Public  
20 Service Commission. For these reasons, the Proposed Transaction is attractive to Axiom  
21 UP.

1 **Q13. PLEASE DESCRIBE, IN DETAIL, THE PROJECTED IMPACT OF THE**  
2 **PROPOSED TRANSACTION ON CUSTOMER RATES AND ELECTRIC**  
3 **SERVICE.**

4 A13. Mr. Neil in his testimony addresses the projected impact of the Proposed Transaction on  
5 customer rates and electric service. To that, I will just add my own assurances that from  
6 Axium UP's standpoint the completion of the Proposed Transaction is not intended to have  
7 any adverse impact on the ongoing operation of UPPCO or the service it provides to its  
8 customers. In fact, as discussed in Mr. Haehnel's and Mr. Arencibia's testimonies, Axium  
9 UP expects the Proposed Transaction will benefit UPPCO's customers by reducing  
10 UPPCO's future cost of debt compared to what its future cost of debt would be under its  
11 current ownership and financing structure. As I discussed above, Axium UP has also  
12 committed to maintaining existing agreements with UPPCO's workforce. These  
13 commitments are intended, in part, to ensure that UPPCO continues to deliver quality  
14 services and that the delivery of those services is uninterrupted. Furthermore, no  
15 transactional costs will be recovered through rates. From the customer's point of view,  
16 UPPCO's service will be unaffected by the Proposed Transaction.

17 **Q14. PLEASE ADDRESS THE REQUIREMENT TO PROVIDE ALL DOCUMENTS**  
18 **RELATED TO THE PROPOSED TRANSACTION, TOGETHER WITH COPIES**  
19 **OF ALL OTHER WRITTEN INSTRUMENTS ENTERED INTO OR PROPOSED**  
20 **TO BE ENTERED INTO BY THE PARTIES TO THE TRANSACTION.**

21 A14. Exhibit A-5 (JRN-5), to the testimony of Mr. Neil provides the SPA, together with  
22 attachments.

1 **Q15. PLEASE EXPLAIN THE FACTS RELIED UPON TO DEMONSTRATE THAT**  
2 **THE PROPOSED TRANSACTION IS CONSISTENT WITH THE PUBLIC**  
3 **INTEREST, INCLUDING A GENERAL EXPLANATION OF THE EFFECT OF**  
4 **THE PROPOSED TRANSACTION ON COMPETITION AND RATES.**

5 A15. Axium UP has access to the technical, managerial and financial capabilities to provide  
6 reasonably priced, safe, reliable, and adequate electric service to customers in the State of  
7 Michigan. Furthermore, the management and staff of UPPCO will not change with this  
8 Proposed Transaction, so the experience and expertise existing at UPPCO prior to the  
9 Proposed Transaction will still be there following the closing. Completion of the Proposed  
10 Transaction would allow UPPCO to restructure its debt, as described in the testimony of  
11 Mr. Arencibia, thus lowering costs for the company and its customers going forward.  
12 However, even without the restructuring of the debt at UPPCO, Axium UP is of the opinion  
13 that the Proposed Transaction would be in the public interest for all of the following  
14 reasons.

15 Axium UP is confident that UPPCO's customers would continue to receive safe, reliable  
16 and accessible electric service under the Proposed Transaction, and current applicable rates  
17 and tariffs would remain effective. Nor would the Proposed Transaction have an adverse  
18 impact on the rates of UPPCO customers.

19 Conditions and terms of employment would not be affected by the Proposed Transaction.  
20 Nor would existing contracts and business relationships be adversely affected. The  
21 Proposed Transaction is not expected to have any significant effect on competition or  
22 competitive markets. In short, it is our intent that the Proposed Transaction be seamless

1 from the perspective of customers, employees, and other stakeholders with respect to  
2 UPPCO's continued delivery of safe, reliable, and accessible electric service to its  
3 customers.

4 Following approval and closing of the Proposed Transaction, UPPCO would have access  
5 to adequate resources to ensure that necessary investments in its facilities and operations  
6 can be made. It is Axiom US's business model to manage its funds to invest in  
7 infrastructure assets and create value over the long-term period of its investment. Axiom  
8 US's managed infrastructure funds are long-term holders of infrastructure assets and are  
9 not making this investment for purposes of securing short-term return, but intend to own  
10 and manage this investment over the long term. Axiom UP has a plan to restructure the  
11 debt of UPPCO in order to save the company and its customers money over the long term,  
12 and plans to continue UPPCO's movement towards increasing use of renewable energy  
13 generation resources located in the Upper Peninsula of Michigan.

14 In short, approval of the Proposed Transaction would be consistent with the public interest  
15 because, following closing,

- 16 • UPPCO would continue to provide safe, reliable and accessible service to its  
17 customers;
- 18 • There would be no adverse impact on the currently effective rates and tariffs of  
19 UPPCO, its existing contractual relationships, or competitive markets as a result  
20 of the Proposed Transaction;
- 21 • UPPCO would continue to operate on a stand-alone basis, with no risk of cross-  
22 subsidization of any non-regulated business;

- UPPCO's existing offices and management would continue as they existed before the closing of the Proposed Transaction;
- The capital structure of UPPCO would be improved by a restructuring of the company's debt; and
- UPPCO's access to capital would not be adversely impacted by the Proposed Transaction.

Axium UP has taken care to assure that its filings in this docket are in compliance with applicable law, as well as Commission rules and regulations. Axium UP looks forward to assisting UPPCO into the future in its operations as a responsible corporate citizen and active participant in Michigan's future growth.

**Q16. PLEASE DESCRIBE AXIUM'S COMMITMENT TO MAINTAIN EXISTING LEVELS OF CORPORATE CHARITABLE CONTRIBUTIONS AND COMMUNITY SUPPORT AFTER THE PROPOSED TRANSACTION.**

A16. Under the terms of the SPA, Axium UP has committed to continue UPPCO's existing charitable contribution and community support practices in amounts no less than those provided by UPPCO as the date of the closing, and to continue to do so for five (5) years following the closing of the Proposed Transaction. However, Axium UP intends to assist UPPCO in remaining a fully engaged community partner in the UP and has no plans to change UPPCO's engagement following the end of the five-year period required under the SPA.

1 **Q17. PLEASE DESCRIBE THE EFFECT OF THE PROPOSED TRANSACTION ON**  
2 **THE DEGREE OF RISK ASSUMED BY UTILITY CUSTOMERS FOR**  
3 **LIABILITIES ASSOCIATED WITH ACTIVITIES THAT ARE NOT**  
4 **REGULATED BY THE COMMISSION.**

5 A17. I have described above a number of ways in which UPPCO's existing practices will  
6 continue following the closing of the Proposed Transaction from the perspective of the  
7 utility's customers, therefore customers should not be exposed to any increased risk from  
8 liabilities associated with this Proposed Transaction nor due to any changes in operations.

9 **Q18. PLEASE DESCRIBE AXIUM'S COMMITMENT TO MAINTAINING EXISTING**  
10 **OFFICES THAT ARE LOCATED IN MICHIGAN.**

11 A18. Under the terms of the SPA, Axium UP has committed to maintaining UPPCO's existing  
12 corporate offices in Michigan and not to alter the existing office locations except within  
13 the normal course of business.

14 **Q19. PLEASE PROVIDE A DESCRIPTION OF THE EFFECT OF THE PROPOSED**  
15 **TRANSACTION ON MARKET POWER.**

16 A19. If this Proposed Transaction is approved, UPPCO would be Axium UP's only Michigan  
17 regulated utility, so there would be no impact on market power.

18 **Q20. PLEASE PROVIDE A DESCRIPTION OF THE EFFECT OF THE PROPOSED**  
19 **TRANSACTION ON UPPCO'S EMPLOYEES.**

20 A20. I have discussed above several commitments in the SPA, whereby Axium UP has  
21 committed to maintaining certain workforce protections for at least twelve months, and to  
22 maintaining at least the same salary or wage and benefits as they currently have available

1 for a period of twenty-four months. Therefore, we do not anticipate that the Proposed  
2 Transaction will have any significant effect on UPPCO's employees.

3  
4 **Q21. PLEASE PROVIDE A DESCRIPTION OF ANY NEW ENTITIES CREATED TO**  
5 **FACILITATE THE TRANSACTION.**

6 A21. Axium UP, is a Delaware limited liability company that was created to purchase and hold  
7 the Upper Peninsula Power Holding Company. Axium UP is managed by Axium US and  
8 is an indirect wholly owned subsidiary of the US Country Funds managed by Axium US.  
9 Under the Proposed Transaction, Axium UP will acquire 100% of the common stock of  
10 the Upper Peninsula Power Holding Company.

11 **Q22. DOES THIS CONCLUDE YOUR TESTIMONY?**

12 A22. Yes, it does.

13  
14  
15 17526373.10

## ***Biographical Notes***



**Thierry Vandal**

**President – Axiom Infrastructure US Inc.**

Thierry Vandal is the President of Axiom Infrastructure US Inc, the NYC-based affiliate of Axiom Infrastructure, an independent investment firm dedicated to long-term investments in core infrastructure assets. Axiom Infrastructure currently has over \$4 billion in Asset Under Management (“AUM”). Mr. Vandal joined Axiom Infrastructure in September 2015.

Thierry Vandal was the President and CEO of Hydro-Québec, one of North America’s largest power companies, with world-class energy infrastructure construction operations, until May 2015. Mr. Vandal joined Hydro-Québec in 1996 and served in various capacities until his appointment as President and Chief Executive Officer in 2005. He was previously active in the natural gas infrastructure sector, the petrochemical and the downstream oil industries.

Mr. Vandal holds a civil engineering degree from École polytechnique (Université de Montréal, 1982) and an MBA – Finance from HEC Montréal (1995). In 2012, Mr. Vandal was elected a Fellow of the Canadian Academy of Engineering.

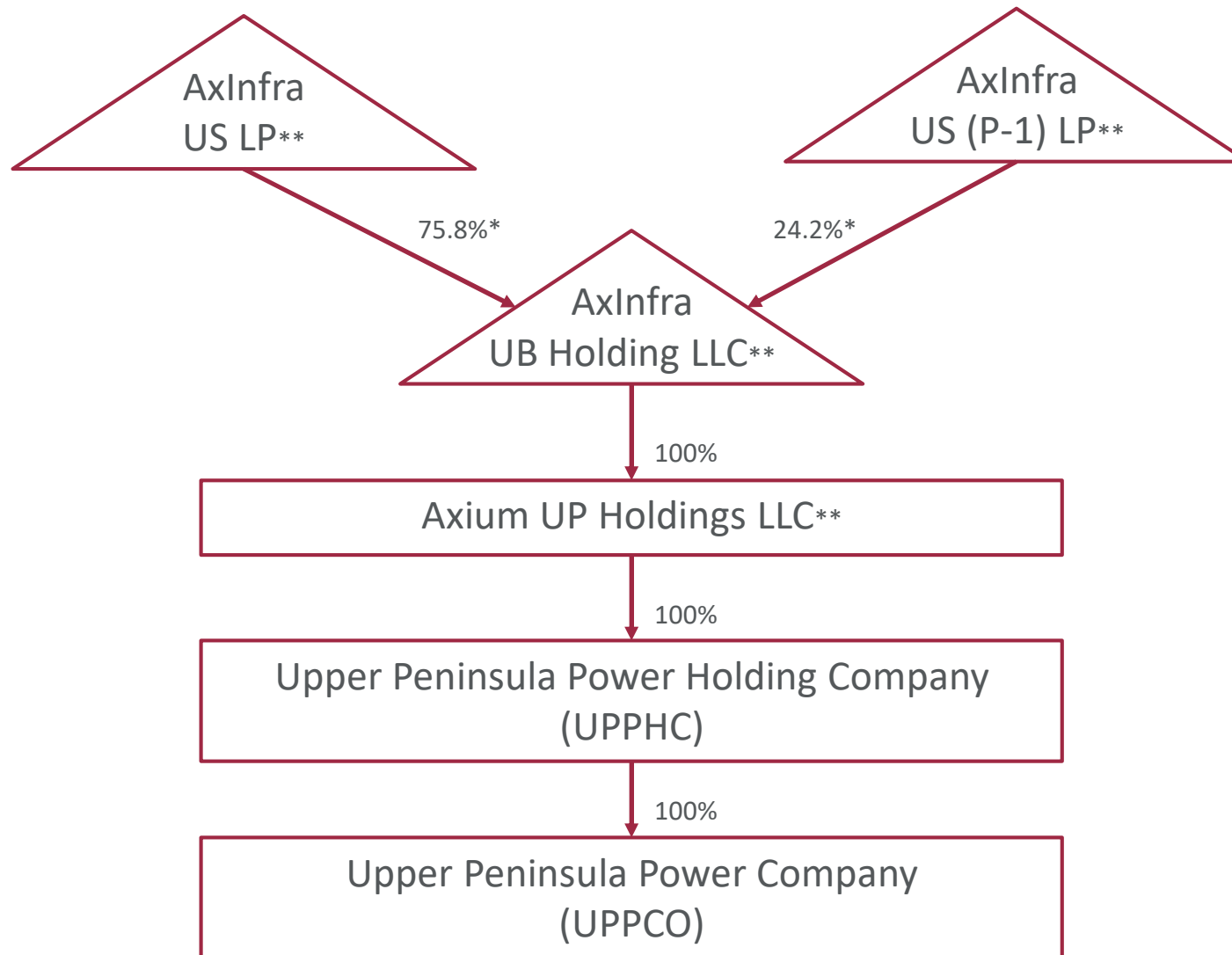
Mr. Vandal sits on the boards of Royal Bank of Canada (TSX, NYSE: RY) and TC Energy (TSX, NYSE: TRP). He is a Governor *Emeritus* of McGill University and a past Chairman of BioFuelNet Canada and The Conference Board of Canada.

In 2007, the Université de Montréal awarded him an honorary doctorate to underscore his outstanding professional contribution to the energy sector. In 2012, he received an honorary doctorate from the Institut national des sciences appliqués (INSA) in Lyon, France and was recognized as the Canadian Energy Person of the Year by the Canadian Energy Council

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## ORG CHART – POST ACQUISITION STRUCTURE

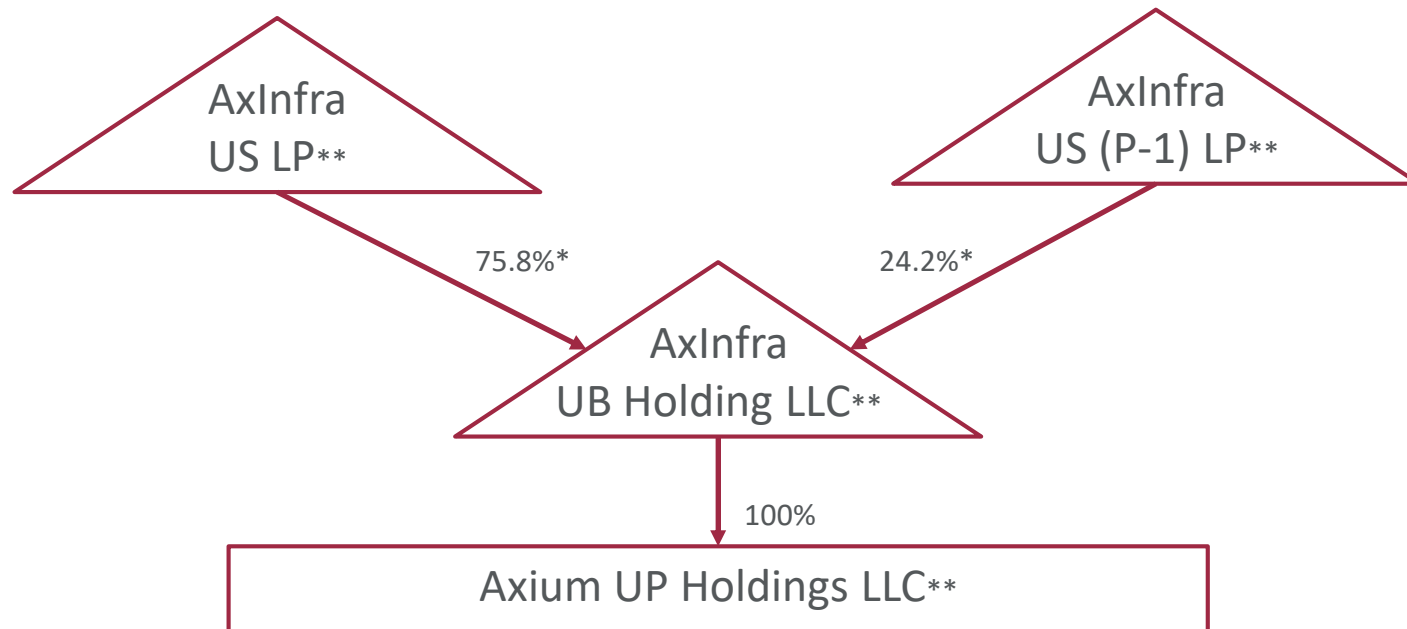


\* Percentage interests held by AxInfra US LP vs. AxInfra US (P-1) LP subject to change.

\*\* Managed by Axium Infrastructure US Inc.

## ORG CHART – PRE ACQUISITION STRUCTURE

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\* Percentage interests held by AxInfra US LP vs. AxInfra US (P-1) LP subject to change.

\*\* Managed by Axium Infrastructure US Inc.

**Exhibit A-9: Select Axiom Owned/Operated Energy Projects**

Select Power/Energy Projects	Location	Type	Commentary
Wind Energy Transmission Texas	Texas	Transmission	Operational Transmission
Axiom Arizona Renewables	Arizona	Wind/Solar	Operational Renewables Portfolio (1wind, 1 solar)
Axiom US Wind Portfolio	7 States	Wind	Portfolio of 13 Operational Wind Projects
Axiom US Wind II Portfolio	Indiana/Kansas	Wind	Portfolio of Two Operation Wind Projects
K2 Wind Farm	Ontario, Canada	Wind	Operational Wind Project
Slate Creek Wind Farm	Missouri	Wind	Operational Wind Project
Axiom Infinity Solar	Ontario, Canada	Solar	Portfolio of Eight Operational Solar Projects
Aurora Solar	Ontario, Canada	Solar	Portfolio of Nine Operational Solar Projects
Axiom Solarlight	Ontario, Canada	Solar	Portfolio Three Operational Solar Projects
Northwestern BC Hydro Facilities	BC, Canada	Hydro	Three Operational Run-of-River Hydroelectric Facilities
Axiom Buckeye (OSU Concession)	Ohio	District Energy	50-year Concession to O&M of OSU District Energy System

**UPPER PENINSULA POWER COMPANY, LLC**

**-and-**

**AXIUM INFRASTRUCTURE US INC.**

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**AFFILIATE SERVICES AGREEMENT**

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**□ □, 2021**

## **AFFILIATE SERVICES AGREEMENT**

This Agreement dated effective as of [] (the “**Effective Date**”), is made

**BETWEEN:**                    **UPPER PENINSULA POWER COMPANY LLC (“UPPCO”)**

**AND:**                        **AXIUM INFRASTRUCTURE US INC. (“Axiom”)**

### **RECITALS**

**WHEREAS**, UPPCO is an affiliate of Axiom, and UPPCO’s sole purpose is the provision of electric utility service and the performance of activities reasonably necessary and appropriate thereto;

**AND WHEREAS**, Axiom wishes to provide, and UPPCO wishes to retain Axiom for the purposes of providing, certain Services (hereinafter defined);

**AND WHEREAS**, Axiom directly or indirectly via its Affiliates acting on behalf of Axiom (hereinafter defined) can offer the Services to UPPCO to the mutual benefit of the companies and ultimately to the benefit of the ratepayers of Michigan;

**AND WHEREAS**, both Axiom and UPPCO desire to conduct their operations in accordance with the Michigan Public Service Commission's Code of Conduct (which is attached hereto as Schedule B) governing transactions with affiliated companies.

**NOW THEREFORE**, in consideration of the foregoing, the promises and mutual agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

### **ARTICLE 1 INTERPRETATION**

#### **1.1     Certain Definitions.**

In this Agreement, the following words and phrases will have the following meanings, respectively, unless the context otherwise requires:

“**Agreement**” means this agreement entitled “**Affiliate Services Agreement**” and all attachments hereto, in each case as it or they may be supplemented or amended from time to time.

“**Confidential Information**” means all information and compilations of information in whatever form (whether oral, written, machine-readable or otherwise) pertaining to the disclosing party and its business, operations, properties, assets and liabilities, including, without limitation, lists of customers, software code and suppliers, pricing structures, plans, blueprints, business files and records, trade secrets, know-how and financial information.

“**Person**” means an individual, corporation, company, cooperative, partnership, trust, unincorporated association, governmental body or other form of entity or organization of any nature whatsoever, whether now or hereafter in existence; and pronouns that refer to a Person shall have a similarly extended meaning.

## 1.2 Additional Rules of Interpretation.

- (1) *Headings.* The inclusion in this Agreement of headings of Articles and Sections is for convenience of reference only and is not intended to be full or precise descriptions of the text to which they refer.
- (2) *Section References.* Unless the context requires otherwise, references in this Agreement to Sections are to Sections of this Agreement.
- (3) *Statute References.* Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision.
- (4) *Document References.* All references herein to any agreement (including this Agreement) or document mean such agreement or document as amended, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules and exhibits attached thereto.
- (5) *Currency.* Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in United States dollars.
- (6) *Preamble and Recitals.* The preamble and recitals hereto (and all definitions therein contained) shall form an integral part of this Agreement.
- (7) *Terms Generally.* The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “**include**”, “**includes**” and “**including**” shall be deemed to be followed by the phrase “**without limitation**”. The word “**will**” shall be construed to have the same meaning and effect as the word “**shall**”. Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time renewed, extended, replaced, supplemented, amended, substituted or re-enacted from time to time, (ii) any reference herein to any Person shall be construed to include such Person’s successors and permitted assigns, (iii) the words “**this Agreement**”, “**these presents**”, “**herein**”, “**hereof**”, “**hereby**”, “**hereunder**” and similar expressions refer to this Agreement and include all attachments hereto and all other deeds, agreements or writings in amendment hereof or supplemental or ancillary hereto or in implementation hereof, and the use of such word or phrase is not a reference to any particular provision, Section, Subsection, Paragraph or other portion hereof or thereof, (iv) “**and/or**” shall mean that the thereto precedent and subsequent words grammatically associated therewith are connected thereby in the conjunctive sense (whether cumulative as to the whole thereof, or in any combination of more than one thereof) and also, as an equal alternative, in the disjunctive sense; and “**and**” shall (except where specifically restricted to the conjunctive sense, e.g. by use of the phrase “**and (but not or)**”) ordinarily mean that the conjunctive sense should be applied thereto unless by reason of the context, subject matter and circumstances then concerned substitution of the disjunctive sense would reasonably be necessary to give meaning to the words used therewith, and “**or**” shall (except where specifically restricted to the disjunctive

sense, e.g. by use of the phrase “**or (but not and)**”) mean the converse (both ordinarily and substitutionally) of the foregoing meaning and implication of “**and**”.

## **ARTICLE 2 SERVICES**

### **2.1 Provision of Services.**

Axium may directly or indirectly provide to UPPCO management and administration assistance during the Term (hereinafter defined). In providing these services, Axium may utilize its officers, other employees, independent data processing centers, consultants, and other agents as Axium, in its determination, deems appropriate to meet the requirements as reasonably defined by UPPCO and agreed by Axium. For purposes of this Agreement “**Affiliate**” means, in relation to a company, a company which is or was, on or after the Effective Date, its subsidiary or holding company, or a subsidiary of such holding company.

### **2.2 Services to be Provided.**

In providing general management and administration services, Axium may in its discretion agree to provide assistance to UPPCO regarding human resources or personnel, procurement, information technology, regulatory services, administrative services, real estate services, legal services, accounting, environmental services, research and development, internal audit, community relations, corporate communications, financial services, financial planning and management support, corporate services, corporate secretary, lobbying, corporate planning, general organization management, finances, taxes, and other services, as specified herein, and as Axium may be able to, and may in its discretion agree to, provide and UPPCO may require (collectively referred to herein as the “**Services**”). All Services shall be performed in compliance with UPPCO’s Code of Conduct.

### **2.3 Warranty of Services.**

Axium warrants and represents that it shall exercise all reasonable skill, care and diligence in the discharge of each Task Order (hereinafter defined) and shall exercise the degree of skill and care required of an experienced, reasonably prudent provider of the Services and in accordance with this Agreement, all applicable laws, and accepted industry practice. Axium shall be liable to UPPCO for deficiencies in the Services which result from failure to meet the foregoing standards and which become apparent within one (1) year from the date of completion of the Services. At its own expense and without reimbursement by UPPCO, Axium will re-perform any of the Services performed by its personnel hereunder which are not in conformity with the specified standards.

### **2.4 Task Orders.**

Services shall be requested by UPPCO from time to time by the issuance of a Task Order, a form of which is attached as Schedule A. Axium shall make available such Services as are defined in each Task Order to the extent Axium shall, in its discretion, have accepted such Task Order. Each Task Order shall describe the Services requested, all necessary and prudent details related to compensation, any applicable schedule for the Task Order, and anticipated out-of-pocket expenditures to be incurred in connection with the performance of the particular Task Order. All Task Orders shall be priced according to UPPCO’s Code of Conduct. Upon both Parties agreeing in writing to a Task Order, Axium shall allocate competent, experienced and licensed (if required by the terms of the Task Order) resources to perform the Services.

## **2.5 Third Party Services.**

During the Term, Axium may provide the Services to UPPCO through third parties (including Affiliates and other agents) with which Axium or any of its Affiliates controls the primary relationship. UPPCO may request of Axium that it be permitted to utilize Services of such third party through Axium, who may combine such request with other Axium work efforts with the third party. Axium shall charge UPPCO for the provisions of Services by third parties based on a direct pass through of charges without markup.

## **ARTICLE 3 CHARGES AND COST RECOVERY**

### **3.1 General.**

Axium agrees to provide such products, Services and assets offered under this Agreement at prices that are fair and reasonable and that reflect the market value of the product, service or asset, and UPPCO will reimburse Axium for reasonable and necessary travel, accommodation and other costs directly associated with the Services provided hereunder, subject to the provision of suitable documentation thereof and provided such costs are within the scope of the relevant Task Order.

### **3.2 Specific Charges.**

Each Task Order shall provide for a not-to-exceed sum for the specific Services. Axium shall, solely as a courtesy and not as a condition to payment, inform UPPCO when eighty percent (80%) of each such not-to-exceed sum has been expended.

## **ARTICLE 4 ACCOUNTING RECORDS, INVOICES AND PAYMENTS, RECORDS AND AUDITS**

### **4.1 Accounting Records.**

Axium shall provide a reasonable accounting of products, Services, and assets it performs or provides for/to UPPCO as necessary for UPPCO to maintain a complete set of records and books in accordance with the system of accounts required and/or approved by applicable federal and state agencies, which records shall include annual audits, financial statements, tax returns, and other reports required for local, state, or federal regulatory agencies.

### **4.2 Invoices and Payments.**

Axium shall invoice UPPCO on at least a quarterly (and if earlier, at completion of discrete tasks) or at Axium's option, monthly, basis for all fees and costs incurred in accordance with this Agreement and the specific terms of each Task Order. Such invoices shall be reasonably detailed to provide UPPCO with information related to the nature of the Services performed and costs incurred, and Axium shall provide UPPCO with additional documentation regarding the same as reasonably requested by UPPCO. UPPCO shall make payments only to Axium and shall not directly or indirectly make payments for Services covered under this Agreement to any other person or entity without the express, written direction of Axium. Payment shall be due within thirty (30) days of UPPCO's receipt of a suitably documented invoice.



#### **4.3 Payment Method.**

All payments made under this Agreement shall be in immediately available funds sent to an address provided by Axium to UPPCO or by electronic funds transfer to a bank account designated by Axium. In the event that UPPCO does not make a payment when due or makes a partial payment, a late payment charge shall apply. The late payment factor shall be applied to those sums still due and owing to Axium and shall be subject to the highest interest rate that may be applied for commercial transactions in Michigan. If UPPCO fails to make a payment when due, Axium, while reserving any other remedy it may have at law, shall have the right, after providing thirty (30) days' additional written notice and opportunity to cure to UPPCO, to terminate this Agreement and cease providing any Services hereunder.

#### **4.4 Invoice Disputes.**

In the event that a Party disputes in good faith any part of an invoice, a Party may withhold payment of the disputed amount. If by settlement or resolution of the dispute:

1. any portion of the disputed amount is payable by one party ("**Payer**") to the other ("**Payee**"), the Payer shall pay to the Payee such amount, plus interest computed at the statutory rate, on or before the later of (i) fifteen (15) days after the date of such final determination, and (ii) the due date for payment of the relevant invoice; and

2. a Party is required to refund any amount to the other party, that Party shall within fifteen (15) days of the date of such final determination pay to the other Party such amount, plus interest at the statutory rate from the date of payment by the second Party to the date of repayment by the first Party.

If an error is found in any invoice, the necessary adjustment shall be made in the next invoice.

#### **4.5 Records and Audits.**

The parties shall maintain complete and accurate records, including hours, costs, expenses, and any other matters pertaining to each party's performance and obligations under this Agreement. Such records shall satisfy all reasonable external financial reporting requirements, including possible use in an appropriate rate case proceeding. In order to carry out the provisions of this Agreement, Axium agrees to allow representatives of the appropriate regulatory body access to its books and records associated with its dealings with UPPCO during Axium's regular business hours at Axium's offices, and Axium may likewise inspect UPPCO's books and records. UPPCO agrees to file with the appropriate regulatory body the annual reports as prescribed by the regulatory body pertaining to this Agreement. UPPCO or its authorized representative may also audit Axium's records related to any Service performed solely for the purpose of confirming that Axium actually incurred or was actually liable for costs for which Axium invoiced in relation to such Service, provided that, any such audit may only be conducted: (a) once at any time within a twelve (12) month period following the date of receipt of the invoice; (b) upon reasonable prior written notice to Axium; and (c) during Axium's normal business hours. The expenses for any audit shall be borne by the auditing party, and the audit shall be conducted so as to cause a minimum of inconvenience to Axium. Axium shall review and respond in a timely manner to any written notice of any discrepancy or question raised by the auditing party as a result of an audit. Axium shall cause a provision to be inserted in any third party service provider contracts providing for a similar right of audit.

## **ARTICLE 5 TERM AND TERMINATION**

### **5.1 Initial Term.**

This Agreement will be effective as of the Effective Date and shall continue to be in effect for a period of one (1) calendar year unless otherwise terminated as provided herein (collectively with any renewal terms, the “**Term**”).

### **5.2 Renewal Term.**

Following the expiration of the initial term of this Agreement, this Agreement will automatically renew for successive year-to-year periods unless and until either party provides no less than sixty (60) days’ prior written notice of the party’s intention to not renew the Agreement.

### **5.3 Termination Right.**

Notwithstanding anything herein to the contrary, either Axium or UPPCO may terminate this Agreement at any time by providing sixty (60) days’ prior written notice of its desire to terminate this Agreement to the other party.

### **5.4 Effect of Termination.**

- (1) Upon termination of this Agreement, UPPCO shall pay to Axium all amounts owed to it hereunder, including all Axium’s expenses.
- (2) Any termination under this Agreement shall terminate all rights and obligations under this Agreement except rights and obligations in respect of amounts owing under this Agreement or rights and obligations which by their nature would continue beyond the termination of this Agreement, including those contained in the indemnity and confidentiality provisions herein.
- (3) Upon termination of this Agreement, Axium shall, and shall cause its applicable personnel to, forthwith deliver to UPPCO all records, documents and books of account which are in the possession or control of Axium and relate directly or indirectly to the business of UPPCO or the performance by Axium of its obligations under this Agreement; provided, however, that Axium may retain copies of such records, documents and books of account for the purpose of legal proceedings and dealing with any governmental or taxation authorities or pursuant to its document retention policy, subject in all events to the confidentiality restrictions herein.

## **ARTICLE 6 CONFIDENTIALITY**

### **6.1 Confidentiality.**

- (1) Each party and its respective personnel shall not, without the prior written consent of the other party, directly or indirectly communicate or disclose to any Person, or use for any purpose other than fulfillment of obligations under this Agreement, and then only to its own controlled affiliates and its and their employees or advisors, any Confidential Information.

- (2) The foregoing provisions shall not apply to, and Confidential Information does not include, information: (a) which is in the public domain, or comes into the public domain without any breach of this Agreement; (b) which the receiving party can demonstrate through appropriate documentation was previously known to it; (c) which the receiving party learned from a source other than the disclosing party (or any director, officer, employee, agent or consultant of the disclosing party) or a party hereto, and without violation of this or any other non-disclosure obligation; or (d) which is required to be disclosed pursuant to applicable laws or the decision or order of a court or tribunal with valid jurisdiction, or pursuant to a request of banking or financial regulators having jurisdiction over Axium or its owners or affiliates (a "Regulatory Request"). Upon the occurrence of an event described in Subsection (d), other than a Regulatory Request, then the party proposing to disclose pursuant to clause (d) shall provide the other party with written notice of such requirement as soon as possible and prior to such disclosure to the extent not prohibited by law. The other party, at its sole expense, may then either seek appropriate protective relief from all or part of such requirement or, if it fails to successfully do so, it shall be deemed to have waived the other party's compliance with this Section with respect to all or part of such requirement. Each party shall use commercially reasonable efforts to cooperate with the other party, at the other party's sole expense, in attempting to obtain any protective relief which the other party chooses to obtain.

## **ARTICLE 7 REGULATORY JURISDICTION**

### **7.1 Regulatory Jurisdiction.**

The parties recognize that UPPCO is intended to be a public utility and, as such, is subject to regulation and control by governmental regulatory agencies. Therefore, the provisions of this Agreement shall be construed to be consistent with the lawful control and regulatory powers of any such agency. Without limiting the provisions in Section 4.5, all books, records, accounts and other data in possession of any of the parties relating to the operations for or on behalf of UPPCO under the administration of this Agreement, shall, during normal business hours at the respective party's office, be made available to any such agency engaged in the performance of its lawful function.

## **ARTICLE 8 LIABILITY AND INDEMNIFICATION**

### **8.1 Indemnification.**

Axium assumes no liability for the obligations of UPPCO under this Agreement, and UPPCO assumes no liability for the obligations of Axium under this Agreement. Each party shall indemnify and hold harmless the other party, its respective affiliates and its and their directors, officers, employees, and agents from any and all loss, suit, action, or claim, including costs and attorneys' fees, by reason of injury, including death, to any Person, or damage to property, arising directly from or in connection with the actions or omissions of the indemnifying party pursuant to this Agreement, except for such injury or damage arising from the sole willful misconduct or sole gross negligence of the other party to be indemnified.

### **8.2 No Representations.**

Axium has not made, does not make, and shall not be deemed to have made with respect to the Services, any representation, express or implied, with respect to (a) merchantability; (b) fitness, safety, condition,

quality, durability, or suitability for a particular purpose; (c) patent infringement; (d) latent defects; or (e) any other matter except as expressly set forth in this Agreement.

### **8.3 Limitation on Liability.**

Except as expressly set forth in this Agreement, Axium shall have no liability for any damages or losses arising out of or relating to any failure by it to perform under this Agreement, any termination of this Agreement by Axium as permitted herein, or any mistakes, omissions, interruptions, delays, error, defects, or any other actions or inactions of any kind with respect to the Services, or any other services or equipment furnished or to be furnished by Axium, or anything done or to be done in connection therewith, and whether arising out of statute, contract, negligence, strict liability, in tort, or under any warranty, or otherwise. In no event shall either party be liable, in connection with this Agreement, for any indirect, incidental, consequential, special or other similar damages, including, but not limited to, damages resulting from loss of actual or anticipated revenues or profits, or loss of business, customers or goodwill, whether arising in tort, contract, strict liability, indemnity or otherwise.

## **ARTICLE 9 GENERAL**

### **9.1 Compliance with Federal and State Laws and Regulations.**

Axium and UPPCO each agree to comply with the provisions of all applicable federal, state, county, and local laws, ordinances, regulations, and codes in the performance of this Agreement.

### **9.2 Unauthorized Payments.**

Each of the parties agrees that it will not, and it will ensure that it and any of its and their respective directors, officers, shareholders, employees or agents will not, corruptly make, offer or agree to make or offer any loan, gift or other payment directly or indirectly, whether in cash or in kind, for the use or benefit of a Foreign Official for the purpose of influencing any act or decision of such Foreign Official in his or her official capacity, or inducing him or her to do or omit to do any act or use his or her influence with the foreign government, to assist a company in obtaining, retaining or advancing business in any manner for or with, or directing business to, any Person such that if the party or any of their respective directors, officers, shareholders, employees or agents were United States persons such action would constitute a violation of the United States Foreign Corrupt Practices Act of 1977. The term “**Foreign Official**” shall mean (i) any officer or employee of a foreign government, department (whether executive, legislative, judicial or administrative), agency or instrumentality of such foreign government, including a regional government body or a government-owned business, or a public international organization; (ii) any person acting in an official capacity for or on behalf of such foreign government, department, agency, instrumentality, or public international organization; (iii) any candidate for a foreign political office; or (iv) any foreign political party; except that when read in relation to the United States Foreign Corrupt Practices Act of 1977 “foreign” shall mean “not of or from the United States.”

### **9.3 Axium an Independent Contractor.**

The relationship between Axium and UPPCO for purposes of this Agreement shall not be that of partners, agents, or joint venturers for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, and neither party shall have

any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other party.

#### **9.4 Governing Law and Dispute Resolution.**

This Agreement shall be governed by and interpreted in all respects in accordance with the laws of the State of Michigan, United States of America, without reference to conflicts of laws principles that would require or permit the application of the laws of any other jurisdiction.

#### **9.5 Assignment.**

The rights and obligations of Axium shall not be assigned nor delegated to third parties other than its controlled affiliates without the prior written consent of UPPCO, which consent will not be unreasonably withheld, conditioned or delayed; provided, however, that the utilization of third parties to perform any portion of a Task Order shall not be considered to be an assignment hereunder. UPPCO shall not be authorized to assign, resell or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of Axium, which consent may be withheld in the sole and absolute discretion of Axium. Notwithstanding the foregoing, Axium's written consent to UPPCO's assignment or transfer of this Agreement shall not be required for the assignment of the Agreement to an Affiliate of UPPCO.

#### **9.6 Severability.**

Each provision of this Agreement is intended to be severable. If any provision hereof is found to be unenforceable by a court of competent jurisdiction, then such provision will be deemed to be severed from this Agreement and the remainder of this Agreement will not be affected and will remain in full force and effect to the extent permitted by law.

#### **9.7 Third Party Interest.**

This Agreement is not intended to be for the benefit, or to be construed as creating rights in favor, of any third party.

#### **9.8 Whole Agreement.**

This Agreement together with any attachments hereto contains the whole agreement among the parties, and there are no terms, conditions or collateral agreements express, implied or statutory, other than those expressly set forth in this Agreement and in the attachments hereto.

#### **9.9 Counterparts.**

This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. Each counterpart so executed will constitute an original and all counterparts will be construed together and will constitute one and the same agreement.

**9.10 Further Assurances.**

Each party hereto will from time to time as required, execute such further agreements, assurances and instruments as may be required to carry out the intentions expressed in this Agreement.

**9.11 Binding Effect.**

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns, and shall be in full force and effect from the Effective Date and shall continue in full force and effect until terminated by either party.

*[Signatures appear on following page]*

*[Signature page to Affiliate Services Agreement]*

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be signed below effective as of the Effective Date.

**UPPER PENINSULA POWER COMPANY  
LLC**

By: \_\_\_\_\_  
Name:  
Title:

**AXIUM INFRASTRUCTURE US INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

In the matter of the joint application of )  
**AXIUM UP HOLDINGS LLC** and **LAKE AIV,** )  
**LP,** for approval, pursuant to MCL 460.6q, of the )  
transfer of control of **UPPER PENINSULA** )  
**POWER COMPANY,** and related approvals. )  
\_\_\_\_\_ )

Case No. U-20995

## **DIRECT TESTIMONY AND EXHIBITS OF PAULO ARENCIBIA**

1 **Q1. PLEASE STATE YOUR NAME AND BUSINESS RELATIONSHIP WITH THE**  
2 **JOINT APPLICANTS IN THIS PROCEEDING, AND BUSINESS ADDRESS.**

3 A1. My name is Paulo Arencibia and I am currently a Vice President and Senior Investment  
4 Director for Axium Infrastructure US Inc (“Axium US”). Upon completion of the proposed  
5 acquisition, I will be President of Axium UP Holdings LLC (“Axium UP”). My business  
6 address is 527 Madison Avenue, 21st floor, New York, NY, 10022. Axium US is the sole  
7 manager of Axium UP.

8 **Q2. PLEASE SUMMARIZE YOUR BACKGROUND.**

9 A2. I hold a B.A. in political science and philosophy from Tufts University, and MA in  
10 development economics from the Fletcher School, and an MBA from Instituto de Empresa  
11 in Madrid, Spain, where I was a Fulbright Scholar. I have been with Axium US since 2012,  
12 and have over twenty years of experience in the areas of financial advising and  
13 infrastructure project finance. Exhibit A-11 (PA-1) provides my resume with a more  
14 detailed description of my experience.

15 **Q3. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**



1 A3. In conjunction with the testimony of Mr. Thierry Vandal, I am testifying on behalf of  
2 Axiom UP in support of the Joint Application filed in this docket. In Mr. Vandal's  
3 testimony, he sets out a number of issues that MCL 460.6q and relevant Commission rules  
4 require to be addressed in a transfer of control approval proceeding. As Mr. Vandal noted,  
5 my testimony will address the following:

- 6 • Pursuant to Mich Admin Code, R 460.303(1)(l) and (m), a description of the capital  
7 structure of Axiom UP before and after the closing of the Proposed Transaction.  
8 See my testimony below at A5.
- 9 • Pursuant to Mich Admin Code, R 460.303(1)(i), the provision of pro forma  
10 financial statements resulting from the Proposed Transaction. See my testimony at  
11 A6.
- 12 • Pursuant to Mich Admin Code, R 460.303(1)(q), an explanation of whether Axiom  
13 UP or any party to the Proposed Transaction intends to seek rate recovery of  
14 transaction costs, acquisition premiums, goodwill, or control premiums. See my  
15 testimony below at A7.
- 16 • Pursuant to Mich Admin Code, R 460.303(1)(q), an explanation of whether or not  
17 UPPCO or Axiom UP intends to seek rate recovery of transaction costs, acquisition  
18 premiums, goodwill, or control premiums. See my testimony below at A8.
- 19 • Pursuant to Mich Admin Code, R 460.303(1)(r), a detailed description of the effect  
20 of the Proposed Transaction on UPPCO's regulatory cost of capital. See my  
21 testimony below at A9.

- Pursuant to MCL 460.6q(7)(d), a discussion of whether or not the Proposed Transaction will significantly impair UPPCO's ability to raise necessary capital or maintain a reasonable capital structure. See my testimony below at A10.

- Pursuant to Mich Admin Code, R 460.3031(j), a discussion of other regulatory filings by Axium US or Axium UP related to this transaction. See my testimony below at A11.

**Q4. ARE YOU SPONSORING ANY EXHIBITS?**

A4. Yes, I am sponsoring the following exhibit, which was prepared by me or at my request or under my direction and supervision:

- Exhibit A-11 (PA-1), Resume of Paulo Arencibia.
- Exhibit A-12 (PA-2), Summary of accounting entries for Axium UP

**Q5. PLEASE DESCRIBE THE CAPITAL STRUCTURE OF AXIUM UP BEFORE AND AFTER THE CLOSING OF THE PROPOSED TRANSACTION.**

A5. Both before and after the close of the Proposed Transaction, all of UPPCO's equity is and will continue to be owned by UPPHC. All of the equity of UPPHC will be transferred from Lake AIV, LP ("Seller") to Axium UP upon closing of the proposed transaction.

Axium UP has plans to restructure the debt issued by UPPCO and UPPHC. The new financing structure would include new 3<sup>rd</sup> party UPPCO debt in an amount that would bring the UPPCO debt/capitalization ratio exactly to the approved 46.0%. This issuance is expected to be \$127.1 million and would be used to pay off the existing intercompany loan

1 issued by UPPCO to UPPHC, as well as any outstanding balance on the UPPCO revolver  
2 at transaction close.

3 The new UPPCO issuance would be a 30-year, interest-only bond with a coupon of 3.59%  
4 (T+165 basis points or "bps"). The new UPPCO issuance quantum, interest rate and  
5 maturity has been locked and fully committed by two major insurance companies acting as  
6 lenders. DBRS has provided an investment grade indicative issuer rating of BBB+ for  
7 UPPCO based on this structure. This would be a net benefit to UPPCO's customers, as  
8 UPPCO did not have a standalone investment grade issuer rating previously. This interest  
9 rate is significantly lower than the current regulatory approved cost of debt of 4.46%. Due  
10 to the long-term nature of the 30-year bond that will be put in place, UPPCO's customers  
11 would benefit from long-term stability provided by the new financing structure.

12 Axium UP plans to also put in place a new \$75.0 million revolving credit facility at UPPCO  
13 that would replace its existing revolving credit facility and be used to fund future capex in  
14 line with the approved regulatory debt cap. This would provide UPPCO the flexibility to  
15 fund capital expenditures as needed, without the requirement of issuing new long-term debt  
16 each year, while providing customers with the benefit of lower-cost, short-term debt in the  
17 near-term while an outstanding balance on the revolver exists. When the outstanding  
18 balance on the revolver nears its \$75.0 million capacity, it is expected that UPPCO will  
19 "term-out" the revolver by issuing additional 30-year bonds in an amount equal to the  
20 outstanding balance on the revolver. These additional issuances will be used to pay down  
21 the revolver, so that it may be used to fund future capital expenditures as needed.

1 Axim UP also plans for UPPHC to put in place \$230.0 million of additional fixed-rate note  
2 debt. This new issuance would be an interest-only, 10-year note with a coupon of 3.15%  
3 (T+200 bps). This quantum, interest rate and maturity has been locked and fully committed  
4 with the same lenders as the new UPPCO bond issuance. The existing third-party debt at  
5 UPPHC would be fully paid off with proceeds from the new UPPHC debt. DBRS has  
6 provided an investment grade indicative issuer rating of BBB- based on this structure.

7 Repaying the existing debt at UPPHC would result in a one-time, upfront make-whole  
8 payment due to the noteholders of UPPHC of approximately \$51.4 million (based on  
9 current interest rates), of which approximately \$27.8 million will be funded with proceeds  
10 paid by UPPCO to UPPHC in relation to the payoff of the existing intercompany loan  
11 issued by UPPCO to UPPHC. The final amount of the make-whole payment will be  
12 determined effective as of the closing. UPPCO intends to amortize this approximately  
13 \$27.8 million upfront financing expense over the 30-year term of the newly issued bond,  
14 which is expected to bring the effective interest rate at UPPCO to 4.33%. It is worth noting  
15 that this 4.33% all-in effective refinancing rate is immediately lower than UPPCO's current  
16 regulatory approved cost of debt of 4.46%. Going forward, as UPPCO utilizes the new,  
17 lower-cost revolver to fund capital expenditures, the weighted average cost of debt at  
18 UPPCO is expected to further decrease over the next five years below 4.00%, thereby  
19 resulting in lower debt financing costs in future UPPCO rate cases.

20 It is also worth noting that the make-whole payment is a necessary cost in order to  
21 implement the new, lower-cost financing at UPPCO. The only alternative would be to  
22 leave the existing financing structure in place, which would continue the same, higher cost

1 of debt in line with the current 4.46% regulatory approved cost of debt, going forward.  
2 Therefore, paying the necessary make-whole payment still provides a net benefit to  
3 UPPCO customers by immediately making the expected 4.33% all-in effective refinancing  
4 rate lower than the alternative option. This immediate net benefit continues to grow as the  
5 lower-cost revolver is utilized to fund future capital expenditures.

6 Since Axiom UP is an affiliate of the Axiom Infrastructure funds, an open-ended  
7 investment fund structure, it has access constantly to capital raised through the fund  
8 structure and is not constrained to a maximum amount of equity that can be contributed to  
9 UPPCO, or a fixed time period where equity can be contributed to UPPCO. This is a  
10 benefit not present under the current ownership structure, since UPPCO's current owners  
11 operate within a close-ended investment fund, and therefore have a finite amount of equity  
12 that can be contributed to UPPCO over a finite period of time. Axiom UP expects to  
13 contribute equity in order to fund a portion of UPPCO's planned utility-scale solar capital  
14 expenditures, which will allow UPPCO to continue to maintain its approved common  
15 equity percentage of capital. Over the past three years, Axiom Infrastructure funds have  
16 averaged total annual equity raises of \$640 million per year. Axiom Infrastructure funds  
17 are expected to raise \$500-\$800 million of equity capital over the next 12 months.

18 As for Axiom UP's capital structure before closing, it is essentially the same as that post-  
19 closing. Axiom UP will have no debt or other assets of its own, but will only own its interest  
20 in UPPHC.

21 **Q6. CAN YOU PROVIDE PRO FORMA FINANCIAL STATEMENTS RESULTING**  
22 **FROM THE PROPOSED TRANSACTION?**

1 A6. Please reference Exhibit A-15 (GH-3) as sponsored by Mr. Gradon Haehnel.

2 **Q7. CAN YOU DESCRIBE AXIUM UP’S ROLE IN THE ISSUANCE OF NEW DEBT**  
3 **AT UPPHC AND THE ACCOUNTING ENTRIES DEPICTED IN A-12 (PA-2) FOR**  
4 **AXIUM UP?**

5 A7. As discussed in my response at A5, Axium UP will have no debt of its own post-closing.  
6 However, in order to facilitate Axium UP properly managing the necessary flow of funds  
7 on the closing date of the Proposed Transaction, Axium UP will, for a single moment in  
8 time, be the initial borrower of the \$230.0 million new UPPHC issuance at closing.  
9 Immediately after these proceeds are received by Axium UP the necessary proceeds will  
10 be paid to Lake AIV, LP for the purchase of Lake AIV, LP’s interest in UPPHC.  
11 Immediately after Lake AIV, LP receives such proceeds Axium UP will transfer the  
12 remaining proceeds of the \$230.0 million issuance to UPPHC and UPPHC will assume the  
13 full liability of the issuance. Axium UP will then cease to be a borrower of the new UPPHC  
14 issuance, but will remain a guarantor. To be clear, this will have no impact on UPPCO and  
15 will have no net impact on UPPHC.

16 As demonstrated in Exhibit A-12 (PA-2) at lines 1 through 20, please find the following  
17 description of the proposed journal entries for Axium UP:

- 18 • Axium UP Journal Entry #1: Axium UP receives \$230.0 million of proceeds  
19 from what will be the new UPPHC issuance. *Debit Cash and credit Bonds*

- 1                   •   Axium UP Journal Entry #2: Axium UP receives an equity investment of  
2                    [REDACTED] million from Axium Infrastructure funds. *Debit Cash and credit*  
3                    *Common Stock*
- 4                   •   Axium UP Journal Entry #3: Axium UP makes a payment to Lake AIV, LP  
5                   of [REDACTED] million to purchase its equity interests in UPPHC. *Debit*  
6                    *Investment in UPPHC and credit Cash*
- 7                   •   Axium UP Journal Entry #4: Axium UP sends the remaining proceeds from  
8                   the \$230 million issuance to UPPHC and transfers the liability to UPPHC.  
9                    *Debit Bonds and credit Cash and Investment in UPPHC*

10   **Q8.   PLEASE DISCUSS WHETHER UPPCO OR AXIUM INTEND TO SEEK RATE**  
11   **RECOVERY OF TRANSACTION COSTS, ACQUISITION PREMIUMS,**  
12   **GOODWILL, OR CONTROL PREMIUMS.**

13   A8.   Axium UP does not intend to seek rate recovery for any transaction-related costs,  
14       acquisition premiums, goodwill, or control premiums.

15   **Q9.   PLEASE PROVIDE A DETAILED DESCRIPTION OF THE EFFECT OF THE**  
16   **PROPOSED TRANSACTION ON UPPCO'S REGULATORY COST OF CAPITAL.**

17   A9.   The Proposed Transaction would have no adverse effect on the regulatory cost of capital  
18       of UPPCO. In fact, we believe that the new debt structure we are proposing to put into  
19       place would reduce UPPCO's future cost of capital, compared to what the future cost of  
20       capital would be if the current structure were to remain in place. In addition, the cost of  
21       equity, the cost of debt, and the appropriate regulatory capital structure would continue to  
22       be regulated by the Commission in the same manner that it has been.

1 The cost of equity component of the regulatory cost of capital is not expected to change.  
2 The Commission would continue to have the authority to set the allowed return on equity,  
3 as well as the equity component percentage within UPPCO's capital structure for  
4 ratemaking purposes. Currently, UPPCO is an indirectly owned subsidiary of Basalt  
5 Infrastructure Partners LP and does not have publicly traded equity. This attribute would  
6 not change under the Proposed Transaction, and the determination of the cost of equity  
7 would continue to be calculated as it has been done historically. Axium UP has no strategic  
8 actions contemplated that would substantially increase the risk profile of the business as it  
9 currently operates or that would require a higher implied cost of equity for UPPCO.

10 **Q10. PLEASE DISCUSS WHETHER OR NOT THE PROPOSED TRANSACTION**  
11 **WILL SIGNIFICANTLY IMPAIR UPPCO'S ABILITY TO RAISE NECESSARY**  
12 **CAPITAL OR MAINTAIN A REASONABLE CAPITAL STRUCTURE.**

13 A10. As discussed more fully in my answers above, the Proposed Transaction would not impair  
14 UPPCO's ability to raise necessary capital nor to maintain a reasonable capital structure,  
15 but rather improves the ability to raise necessary capital by aligning itself with an  
16 investment fund owner that operates under an open-ended structure that permits ongoing  
17 capital raises when such capital is needed. In addition, following the Proposed Transaction,  
18 UPPCO would have access to the revolving credit structure discussed above, and would  
19 continue to have the ability to raise competitively priced debt when needed to “term-out”  
20 the revolver when it reaches its capacity, which should be further enhanced by UPPCO’s  
21 stand-alone investment grade issuer rating. UPPCO is planning to continue maintaining a  
22 capital structure within the parameters set by the Commission following closing on the  
23 Proposed Transaction.



1   **Q11. ARE OTHER PUBLIC FILINGS BEING MADE WITH OTHER REGULATORY**  
2       **AGENCIES REGARDING THIS TRANSACTION?**

3   A11. Yes. Axiom UP and Seller will make the following additional filings in connection with  
4       this transaction: (1) filings with the Federal Energy Regulatory Commission pursuant to  
5       Sections 203 and 204 of the Federal Power Act, (2) a filing with the Federal Trade  
6       Commission and Department of Justice pursuant to the Hart-Scott-Rodino Antitrust  
7       Improvements Act of 1976, and (3) filings with the Federal Communications Commission  
8       with respect to the licenses issued by the Federal Communications Commission for  
9       microwave radio equipment in use by UPPCO. Copies of those filings, and any regulatory  
10      orders issued as a result, will be filed in this docket as soon as they are available.

11   **Q12. DOES THIS CONCLUDE YOUR TESTIMONY?**

12   A12. Yes, it does.

13  
14   17538660.15

**Paulo Arencibia**

**Senior Investment Director – Axiom Infrastructure US Inc.**

Paulo Arencibia is a Vice President & Senior Investment Director of Axiom Infrastructure US Inc, the NYC-based affiliate of Axiom Infrastructure, an independent investment firm dedicated to long-term investments in core infrastructure assets. Axiom Infrastructure currently has over \$4 billion in Asset Under Management. Mr. Arencibia joined Axiom Infrastructure in November 2012 and is responsible for the origination and execution of Axiom's investment in the United States.

Prior to joining Axiom Infrastructure, Mr. Arencibia was a senior member the Energy & Infrastructure Banking team at BNP Paribas in New York, where he executed multiple greenfield and brownfield project finance transactions for natural gas-fired and renewable energy projects. He was also responsible for the build-out of BNP Paribas' transportation and PPP platform in the United States and Canada. Mr. Arencibia began his career in London with Citigroup where he focused on financial advisory, and debt structuring and placement in support of the development of large-scale energy and water facilities in Europe and the Middle East.

Fluent in English and Spanish, Mr. Arencibia holds a BA in Political Science and Philosophy from Tufts University, an MA in Development Economics from the Fletcher School, and an MBA from Instituto de Empresa (Madrid, Spain), where he was a Fulbright Scholar.

Mr. Arencibia sits on the board of several of Axiom Infrastructure's portfolio companies, including Wind Energy Transmission Texas, Three Rivers Energy, and Autopistas Metropolitanas de Puerto Rico.

**Axium UP Holdings LLC  
PRO-FORMA JOURNAL ENTRIES  
FOR PERIOD ENDED DECEMBER 31, 2020**

Line	JE #	Account	(a) Dr	(b) Cr
1				
2	1	<u>To Book Loan Proceeds from Lenders</u>		
3		Cash	230,000,000	
4				
5		Bonds		230,000,000
6				
7	2	<u>To record equity Investment from Axium Infrastructure funds</u>		
8		Cash		
9		Common Stock		
10				
11	3	<u>To record Acquisition of UPPHC</u>		
12		Investment in UPPHC		
13		Cash		
14				
15	4	<u>To record Assumption of Loan from Lenders</u>		
16		Bonds		
17		Cash		
18		Investment in UPPHC		
19				
20				
21		Axium UP Holdings LLC		
22		<u>Summary of Adjustments</u>	Dr	Cr
23	*	Cash		
24	*	Bonds		
25	*	Common Stock		
26	*	Investment in UPPHC		
27		Total		
28				
29		Net Cash		
30		Assets		
31		Liabilities		
32		Equity		
33				
34		* = amounts subject to change; contingent on timing of transaction		

In the matter of the joint application of )  
**AXIUM UP HOLDINGS LLC and LAKE AIV, L.P.,** )  
for approval, pursuant to MCL 460.6q, for the transfer of )  
control of **UPPER PENINSULA POWER** )  
**COMPANY,** and related approvals. )

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Case No. U-20995

**DIRECT TESTIMONY AND EXHIBITS OF GRADON R. HAEHNEL**

**Q1. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A1. My name is Gradon Haehnel. My business address is 1002 Harbor Hills Drive, Marquette,  
Michigan 49855.

**Q2. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

A2. I am Chief Financial Officer (“CFO”) and head of Regulatory Affairs for Upper Peninsula Power  
Company (“UPPCO” or the “Company”), and CFO for Upper Peninsula Power Holding  
Company (“UPPHC”).

**Q3. PLEASE SUMMARIZE YOUR BACKGROUND.**

A3. My education includes a Bachelor of Science in Finance from Indiana University of Pennsylvania,  
as well as a Master of Science in Resource and Applied Economics from the University of Alaska  
at Fairbanks. Since 2005, I have served in various positions of increasing responsibility for two  
investor-owned electric utilities, including UPPCO. From 2005 through 2016, I worked at Emera  
Maine, currently Versant Power, an electric transmission and distribution utility located in Bangor,  
Maine. While at Emera Maine, I worked in various leadership capacities, including finance,  
regulatory affairs and asset management serving most recently as Senior Asset Manager (2015).  
Since joining UPPCO in 2016, I have worked in regulatory affairs and finance, serving formerly as  
Vice President of Regulatory Affairs. Currently I serve as UPPHC’s CFO, as well as UPPCO’s

1 CFO and head of Regulatory Affairs. My primary responsibilities include leading the accounting,  
2 finance, tax, corporate reporting, financial planning, power supply, regulatory and energy waste  
3 reduction efforts for UPPCO.

4 I have testified before both the Maine Public Utilities Commission and the Michigan Public Service  
5 Commission (“MPSC” or the “Commission”) in various dockets since 2005.  
6

7 **Q4. ARE YOU SPONSORING ANY EXHIBITS?**

8 A4. Yes, I am sponsoring the following Exhibits:

- 9 • Exhibit A-13 (GH-1) – UPPCO revenue requirement impact (savings).
- 10 • Exhibit A-14 (GH-2) – UPPCO Weighted Average Cost of Capital (“WACC”) impacts.  
11 Pre-closing WACC on page 1. Post-closing WACC on page 2.
- 12 • Exhibit A-15 (GH-3) – Pro-forma financial statements for UPPCO for the period ending  
13 Q4-2020 (unaudited) represented in a Federal Energy Regulatory Commission (“FERC”) Form 1 reporting format. Balance Sheet on pages 1 through 4. Income Statement on  
14 pages 5 and 6. Statement of Cashflows on pages 7 and 8.
- 15 • Exhibit A-16 (GH-4) – Summary of accounting entries for UPPCO and UPPHC. UPPCO  
16 journal entries on page 1. UPPHC journal entries on page 2.  
17  
18

19 **Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

20 A5. The purpose of my testimony is to provide support for the approval of the Joint Application and to  
21 provide certain financial information required by R 460.303 as requested and on behalf of the Joint  
22 Applicants, Axium UP Holdings LLC and Lake AIV, L.P. More specifically, I will provide:

- 23 • a description of the transaction as it relates to customer rates [R 460.303(f)],
- 24 • pro-forma financial statements [R 460.303(i)],

- a description of necessary accounting entries [R 460.303(k)],
- a description of the capital structure both pre- and post-closing [R 460.303(l)], and
- a description of the transaction as it relates to UPPCO's regulatory cost of capital [R 460.303(m)].

**Q6. HOW ARE UPPCO'S CUSTOMERS BENEFITING FROM THIS PROPOSED TRANSACTION?**

A6. Simply put, pursuant to closing and Commission approval of this Proposed Transaction, UPPCO's debt will be refinanced at a lower effective cost rate, thereby lowering UPPCO's calculated WACC and revenue requirement. Consequently, holding everything constant, the revenue requirements that would ultimately derive customer rates in future rate proceedings will be lower and that is a direct benefit for customers. The long-term term debt rate represented in UPPCO's approved WACC calculation in the Company's last rate case<sup>1</sup> was 4.46 percent. It is important to note that UPPCO's *current* long-term debt rate is 5.46 percent due to a 100-basis point step-up in cost imposed by existing long-term noteholders due to UPPCO's below investment grade debt rating, which occurred in September 2018 after UPPCO filed its last rate case. Since that point in time, UPPCO's actual long-term debt expense has been higher than what was used to set UPPCO's current base rates. Based on UPPCO's current \$108.2 million intercompany note, UPPCO and its customers should prospectively save \$1.08 million [\$108.2 million multiplied by 100 basis points] in long-term debt interest expense annually due to this Proposed Transaction and the recapitalization of UPPCO's debt.

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<sup>1</sup> MPSC Case No. U-20276

**Q7. PURSUANT TO R 460.303(f), PLEASE PROVIDE A DETAILED DESCRIPTION OF THE PROJECTED IMPACT OF THE PROPOSED TRANSACTION ON CUSTOMERS RATES AND ELECTRIC SERVICE.**

A7. Relying on the representations made by Witness Paulo Arencibia in his direct testimony and holding everything else constant, the projected impact of the Proposed Transaction should be lower customer costs because the debt recapitalization of UPPCO's *existing* regulated capital structure will be at a lower debt cost rate, thereby lowering UPPCO's after-tax WACC and allowed rate of return. As evidenced in Exhibit A-13 (GH-1) at line 19, and assuming a direct comparison to the WACC calculation in UPPCO's last rate case, UPPCO anticipates a decrease in its annual revenue requirement of approximately \$115,533 solely because of this change in WACC. This value is calculated by taking the newly calculated WACC value and multiplying by the rate base value<sup>2</sup>, which is held constant from UPPCO's last rate case to demonstrate the change in revenue requirement. Additionally, on a go-forward basis, holding everything else constant, UPPCO anticipates a BBB+ debt rating (i.e., two notches above the minimum investment grade rating) which should provide more attractive cost of debt rates for UPPCO in the years to come. As UPPCO is in the process of building an approximate \$100 million solar facility pursuant to the procedure approved in the Commission order approving settlement in MPSC Case No. U-20350, the anticipated lower cost of debt rates would provide more cost-effective financing for capital outlays, thereby reducing the carrying cost of any prospective investments for its customers. Regarding the impact of the Proposed Transaction on electric service, UPPCO anticipates that there will be no adverse change in the current high-quality of electric service that is provided for today under UPPCO's current ownership structure.

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<sup>2</sup> Exhibit A-14 (GH-2) at line 22 and column (b)

**Q8. HOW MUCH ARE UPPCO'S PORTION OF THE MAKE-WHOLE PAYMENT AND NEW DEBT ISSUANCE COSTS MEASURED IN DOLLARS?**

A8. As evidenced in Exhibit A-13 (GH-1) at line 9, UPPCO's portion of the make-whole payment is \$27.8 million. This value represents the proportion of UPPCO's intercompany note, \$108.2 million, to that of UPPHC's total debt of \$200.0 million, multiplied by the estimated \$51.4 million total make-whole payment to be paid by UPPCO and UPPHC (i.e., [(\$108.2 million divided by \$200.0 million) multiplied by \$51.4 million] equals \$27.8 million). Also, as evidenced on line 10, UPPCO's new debt issuances costs are \$508.4 thousand or approximately 40 basis points on the \$127.1 million of long-term debt.

**Q9. HOW DO UPPCO'S PORTION OF THE MAKE-WHOLE PAYMENT AND NEW DEBT ISSUANCE COSTS IMPACT THE COMPANY'S LONG-TERM DEBT RATE?**

A9. As evidenced in Exhibit A-13 (GH-1) at lines 12 and 13, UPPCO's portion of the make-whole payment and new debt issuance costs increase the new long-term debt rate reflected in the Proposed Transaction, from 3.59 percent to an effective rate of 4.33 percent, which is still less than UPPCO's current long-term debt rate of 4.46 percent as approved in UPPCO's last rate case. Therefore, the incremental impact on the long-term debt rate is 0.74 percent when amortized over 30 years.

**Q10. FROM A RATEMAKING PERSPECTIVE, PLEASE DESCRIBE THE DIFFERENTIATING CHARACTERISTICS OF THIS PROPOSED TRANSACTION WHEN COMPARED TO THE ASSET SALE APPROVAL IN MPSC CASE NO. U-17564.**

A10. One of the primary distinctions in this case is the transaction structure from a tax standpoint. Simply put, the 2014 sale of UPPCO was an asset sale<sup>3</sup> and this Proposed Transaction is a stock sale. The primary implication from a ratemaking perspective is that the stock sale, as outlined in

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<sup>3</sup> This is commonly referred to as a 338(h)(10) election which is a tax election that qualifies an asset purchase for federal tax purposes.



1 this Proposed Transaction, is far less complex because there is *no* step-up basis in depreciation for  
2 the acquired assets, which would ultimately implicate deferred tax liabilities and deferred tax assets.  
3 But for the change in UPPCO's debt capitalization, including UPPCO's portion of the make-whole  
4 amount and new debt issuance costs to refinance its debt at a lower effective cost rate (which  
5 customers will benefit from), UPPCO's regulatory book of accounts (i.e., UPPCO's rate-regulated  
6 assets and liabilities) are "along for the ride" in the Proposed Transaction and will not change.  
7

8 **Q11. AS A RESULT OF THIS PROPOSED TRANSACTION, ARE ANY NEW DEFERRED TAX**  
9 **ASSETS OR DEFERRED TAX LIABILITIES CREATED AT UPPCO?**

10 A11. No.  
11

12 **Q12. AS A RESULT OF THIS PROPOSED TRANSACTION, ARE THERE ANY TAX-**  
13 **RELATED CHANGES TO UPPCO'S RATE BASE?**

14 A12. No.  
15

16 **Q13. AS A RESULT OF THIS PROPOSED TRANSACTION, DO UPPCO'S PENSION ASSETS**  
17 **AND LIABILITIES CHANGE?**

18 A13. No.  
19

20 **Q14. PURSUANT TO R 460.303(r), PLEASE PROVIDE AN EXPLANATION OF THE EFFECT**  
21 **OF THE PROPOSED TRANSACTION ON THE UPPCO'S REGULATORY COST OF**  
22 **CAPITAL.**

1 A14. Please find Exhibit A-14 (GH-2). Execution of the debt recapitalization plan associated with the  
2 Proposed Transaction, as described in the direct testimony of Witness Paulo Arencibia, lowers the  
3 after-tax WACC from 6.91<sup>4</sup> percent to 6.87<sup>5</sup> percent.

4  
5 **Q15. PURSUANT TO R 460.303(i), PLEASE PROVIDE PRO FORMA FINANCIAL**  
6 **STATEMENTS RESULTING FROM THE PROPOSED TRANSACTION.**

7 A15. Please find Exhibit A-15 (GH-3), which provides Q4-2020 financials (unaudited) and pro-forma  
8 adjustments regarding UPPCO's balance sheet (pages 1 through 4), income statement (pages 5 and  
9 6), and statement of cash flows (pages 7 and 8) of the exhibit. The form and substance of Exhibit  
10 A-15 (GH-3) are commensurate with the pro-forma financial statement structure required under  
11 Section 203 and 204 of the Federal Power Act ("FPA").

12  
13 **Q16. PURSUANT TO R 460.303(k), PLEASE DEMONSTRATE THE ACCOUNTING ENTRIES**  
14 **SHOWING THE EFFECT OF THE PROPOSED TRANSACTION WITH SUFFICIENT**  
15 **DETAIL TO INDICATE THE EFFECTS ON ALL ACCOUNT BALANCES ON THE**  
16 **INCOME STATEMENT AND OTHER RELEVANT FINANCIAL STATEMENTS.**

17 A16. Please find Exhibit A-16 (GH-4), which demonstrates the proposed accounting entries for both  
18 UPPCO (page 1) and UPPHC (page 2).

19  
20 **Q17. IN ACCORDANCE WITH R 460.303(k), PLEASE PROVIDE A QUALITATIVE**  
21 **DESCRIPTION OF THE SEQUENCE OF STEPS REQUIRED TO RECAPITALIZE THE**  
22 **DEBT STRUCTURE AT UPPCO AND UPPHC.**

23 A17. The following parameters will remain the same for UPPCO. First, UPPCO will remain 100 percent  
24 owned by UPPHC. Second, UPPCO will actively manage its regulated capital structure to an equity

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<sup>4</sup> Exhibit A-14 (GH-2) at line 22 and column (g)

<sup>5</sup> Exhibit A-14 (GH-2) at line 44 and column (g)

1 thickness of 54 percent with 46 percent debt, consistent with the capital structure resulting from  
2 UPPCO's last rate case in MPSC Case No. U-20276. To recapitalize the debt, the following general  
3 sequence of steps will be followed:

- 4 • UPPCO issues debt of \$127.1 million which will be primarily used to pay off the existing  
5 \$108.2 million intercompany note it has with UPPHC, as well as any outstanding balance  
6 on UPPCO's \$15 million (capacity) short-term revolver. The maturity and structure of  
7 these interest-only senior secured notes will be 30 years with a rate of 3.59 percent.
- 8 • UPPHC issues debt of \$230.0 million which will be used to pay off the existing long-term  
9 notes of \$200.0 million, as well as any outstanding balance on UPPHC's \$15 million  
10 (capacity) short-term revolver. The maturity and structure of these interest-only senior  
11 secured notes will be 10 years and with a rate of 3.15 percent. Both UPPCO and UPPHC  
12 combined will make an approximate \$51.4 million make-whole payment to the existing  
13 noteholders, approximately \$27.8 million of which is economically attributable to the  
14 repayment of the \$108.2 million intercompany note by UPPCO. Also, UPPCO will be  
15 responsible for new debt issuance costs of \$508.4 thousand and UPPHC will be responsible  
16 for debt issuance costs of \$920.0 thousand. The make-whole payment and new debt  
17 issuance costs will be amortized at their respective new long-term debt maturity terms at  
18 both UPPCO and UPPHC noted previously. Lastly, UPPCO will establish a \$75 million  
19 short-term revolver facility (line of credit) at an estimated rate of two percent which will  
20 have an initial balance of zero and is intended to be used for capital expenditures, as well  
21 as managing the capital structure to its targeted 54 percent equity and 46 percent debt  
22 levels.

**Q18. PURSUANT TO R 460.303(k), PLEASE EXPLAIN THE ACCOUNTING ENTRIES<sup>6</sup> DEPICTED EXHIBIT A-16 (GH-4) FOR UPPCO.**

A18. As demonstrated in Exhibit A-16 (GH-4) at lines 1 through 57, please find the following description of the proposed journal entries for UPPCO:

- UPPCO Journal Entry #1: UPPCO issues \$127.1 million in senior secured notes. *Debit Cash (131) and credit Bonds (221).*
- UPPCO Journal Entry #2: UPPCO extinguishes \$108.2 million intercompany note payable to UPPHC. *Debit Advances from Associated Companies (223) and credit Cash (131).*
- UPPCO Journal Entry #3: UPPCO extinguishes \$13.8 million short-term revolver with Associated Bank. *Debit Notes Payable (231) and credit Cash (131).*
- UPPCO Journal Entry #4: UPPCO records net equity infusion of \$23.5 million from UPPHC to fund UPPCO's apportioned make-whole payment, *including* an assumed \$5.0 million existing cash balance. *Debit Cash (131) and credit Advances from Associated Companies (223).*
- UPPCO Journal Entry #5: UPPCO records \$27.8<sup>7</sup> million make-whole payment. *Debit Loss on Reacquired Debt (189) and credit Cash (131).*
- UPPCO Journal Entry #6: UPPCO records \$18.8 thousand of short-term interest expense at extinguishment for existing short-term revolver. *Debit Interest Accrued (237) and credit Cash (131).*
- UPPCO Journal Entry #7: UPPCO records \$271.0 thousand of long-term debt interest payment at extinguishment for existing long-term debt. *Debit Interest accrued (237) and credit Cash (131).*

<sup>6</sup> Account balances reflect Q4-2020 GAAP values (unaudited) and are subject to change based on the closing date of this Proposed Transaction.

<sup>7</sup> The Company currently estimates the total make-whole at \$51.4 million. UPPCO's existing \$108.2 million intercompany note with UPPHC represents 54 percent of UPPHC's existing total \$200.0 million debt. Therefore, UPPCO's portion of the make-whole payment represents 54 percent of \$51.4 million or \$27.8 million.

- 1 • UPPCO Journal Entry #8: UPPCO to write-off \$826.2 thousand of unamortized debt  
2 issuance costs from previous acquisition in 2014 involving Integrys and Balfour Beatty  
3 Infrastructure Partners LP. *Debit Amortization of Debt Discount and Expense (428) and*  
4 *credit Unamortized Debt Issuance Cost (181).*
- 5 • UPPCO Journal Entry #9: UPPCO to record new debt issuance costs of \$508.4 thousand.  
6 *Debit Unamortized Debt Issuance Costs (181) and Credit Cash (131).*

7

8 **Q19. PURSUANT TO R 460.303(k), PLEASE PROVIDE A SUMMARY TABLE OF THE**  
9 **ACCOUNTING ENTRIES DESCRIBED ABOVE FOR UPPCO.**

10 A19. See Exhibit A-16 (GH-4) at lines 58 through 76.

11

12 **Q20. PURSUANT TO R 460.303(k), PLEASE EXPLAIN THE ACCOUNTING ENTRIES<sup>8</sup>**  
13 **DEPICTED EXHIBIT A-16 (GH-4) FOR UPPHC.**

14 A20. As demonstrated in Exhibit A-16 (GH-4) at lines 77 through 133, please find the following  
15 description of the proposed journal entries for UPPHC:

- 16 • UPPHC Journal Entry #1: UPPHC issues \$230.0 million in senior secured notes and  
17 distributes [REDACTED] million to Axium UP. *Debit Cash (131) of \$[REDACTED] million and*  
18 *Miscellaneous Paid-in Capital of [REDACTED] million and credit Bonds (121) for \$230.0 million.*
- 19 • UPPHC Journal Entry #2: UPPHC extinguishes \$108.2 million intercompany note  
20 receivable from UPPCO. *Debit Cash (131) and credit Advances from Associated*  
21 *Companies (223).*
- 22 • UPPHC Journal Entry #3: UPPHC extinguishes \$7.7 million of short-term revolver. *Debit*  
23 *Notes Payable (231) and credit Cash (131).*

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<sup>8</sup> Account balances reflect Q4-2020 GAAP values (unaudited) and are subject to change based on the closing date of this Proposed Transaction.

- 1 • UPPHC Journal Entry #4: UPPHC extinguishes \$200.0 million of long-term debt. *Debit*  
2 *Other Long-term Debt (224) and credit cash (131).*
- 3 • UPPHC Journal Entry #5: UPPHC records \$23.5 million equity infusion from UPPHC to  
4 UPPCO to fund UPPCO's apportioned make-whole payment. *Debit Long-term Note*  
5 *Payable to Affiliate) and credit Cash (131).*
- 6 • UPPHC Journal Entry #6: UPPHC records payment of \$23.6<sup>9</sup> million to long-term debt  
7 noteholders for the make-whole payment due to early extinguishment of debt. *Debit Loss*  
8 *on Reacquire Debt (189) and credit Cash (131).*
- 9 • UPPHC Journal Entry #7: UPPHC records \$35.2 thousand of short-term interest expense  
10 at extinguishment for existing short-term revolver. *Debit Interest Accrued (237) and credit*  
11 *Cash (131).*
- 12 • UPPHC Journal Entry #8: UPPHC records \$2.9 million of long-term debt interest payment  
13 at extinguishment for existing long-term debt. *Debit Interest accrued (237) and credit*  
14 *Cash (131).*
- 15 • UPPHC Journal Entry #9: UPPHC to write-off \$751.7 thousand of unamortized debt  
16 issuance costs from previous acquisition in 2014 involving Integrys and Balfour Beatty  
17 Infrastructure Partners LP. *Debit Amortization of Debt Discount and Expense (428) and*  
18 *credit Unamortized Debt Issuance Cost (181).*
- 19 • UPPHC Journal Entry #10: UPPHC to record new debt issuance costs of \$920.0 thousand.  
20 *Debit Unamortized Debt Issuance Costs (181) and Credit Cash (131).*

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<sup>9</sup> This value is subject to change based on interest paid, market conditions and the closing date of the Proposed Transaction. This \$23.6 million value represents the currently estimated \$51.4 million total make-whole value less UPPCO's \$27.8 million portion.

**Q21. PURSUANT TO R 460.303(k), PLEASE PROVIDE A SUMMARY TABLE OF THE ACCOUNTING ENTRIES DESCRIBED ABOVE FOR UPPHC.**

A21. See Exhibit A-16 (GH-4) at lines 134 through 152.

**Q22. PURSUANT TO R 460.303(l), PLEASE DESCRIBE THE CAPITAL STRUCTURE OF ALL PARTIES TO THE PROPOSED TRANSACTION PRIOR TO THE CLOSING OF THE TRANSACTION<sup>10</sup>.**

A22. UPPCO

- Equity: \$170.7 million

- Long-term Debt: \$108.2 million

- Short-term revolver: \$13.8 million

Described below is a description of the capital structure for UPPHC:

- Equity: [REDACTED] million<sup>11</sup>

- Long-term Debt: \$200.0 million

- Short-term Debt: \$21.5<sup>12</sup> million

**Q23. PURSUANT TO R 460.303(m), PLEASE DESCRIBE THE CAPITAL STRUCTURE OF ALL PARTIES TO THE PROPOSED TRANSACTION AFTER THE CLOSING OF THE TRANSACTION<sup>13</sup>, INCLUDING ANY NEW ENTITIES.**

A23. UPPCO

- Equity: \$170.7 million

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<sup>10</sup> These values represent Q4-2020 GAAP values (unaudited) and are subject to change pursuant to audit.

<sup>11</sup> Includes [REDACTED] million of UPPHC and [REDACTED] million of UPPCO on consolidated basis.

<sup>12</sup> Includes \$7.7 million of UPPHC and \$13.8 million of UPPCO on consolidated basis.

<sup>13</sup> GAAP basis

- 1           ○ Debt: \$127.1 million
- 2           ○ Short-term revolver: \$0 balance. \$75 million (capacity) / Line of Credit

3 Described below is a description of the capital structure for UPPHC:

- 4           ○ Equity: [REDACTED] million
- 5           ○ Debt: [REDACTED] million

6 Described below is a description of the consolidated capital structure of Axium UP Holdings LLC.  
7 To be clear, Axium UP Holdings LLC has no external debt of its own, the below is the total  
8 consolidated debt, which includes the debt at both UPPCO and UPPHC.

- 9           ○ Consolidated equity: [REDACTED] million
- 10          ○ Consolidated debt: [REDACTED] million

11

12 **Q24. PURSUANT TO R 460.303(r), PLEASE DESCRIBE THE PROPOSED TRANSACTION AS**  
13 **IT RELATES TO UPPCO'S REGULATED COST OF CAPITAL.**

14 A24. The Commission's order approving settlement in UPPCO's most recent rate case in MPSC Case  
15 No. U-20276, established an after-tax WACC of 6.91 percent. This was a black-box settlement  
16 value. As evidenced in Exhibit A-14 (GH-2) at page 1, UPPCO's current levels of regulated capital  
17 structure that established rates in U-20276 are:

- 18           • Long-term Debt: \$108.2 million at a cost rate of 4.46 percent through the intercompany  
19           note.
- 20           • Common Equity of \$133.9 million at a cost rate of 9.90 percent.
- 21           • Total Permanent Capital of \$242.1 million.
- 22           • Short-term Debt of \$13.8 million at a cost rate of 4.49 percent.
- 23           • Accumulated Deferred Income Taxes of \$12.2 million at a cost rate of 0.00 percent.



- Settled after-tax WACC of 6.91 percent<sup>14</sup>.

Building upon UPPCO's currently approved regulated cost of capital that is reflected in base rates today, the Proposed Transaction will provide for the following changes as evidenced in Exhibit A-14 (GH-2) at page 2:

- Long-term Debt: \$127.1 million at a cost rate of 4.33 percent<sup>15</sup>.
- Common Equity of \$133.9 million at a cost rate of 9.90 percent.
- Total Permanent Capital of \$242.1 million.
- Short-term Debt of \$0.0 million. Short-term Debt to be replaced by \$75 million (capacity) Line of Credit estimated at 2.00 percent.
- Accumulated Deferred Income Taxes of \$12.2 million at a cost rate of 0.00 percent.
- Settled after-tax WACC of 6.87 percent, including make-whole amount.

In summary, as measured by the change in after-tax WACC illustrated above, holding everything else constant, UPPCO's regulated cost of capital should decrease by 4 basis points based on the recapitalization of UPPCO's existing debt capital structure as compared to UPPCO's previously approved rate case.

**Q25. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY AT THIS TIME?**

A25. Yes.

---

<sup>14</sup> Technically, the calculated after-tax WACC was 6.98 percent, but UPPCO settled to 6.91 percent.

<sup>15</sup> Includes incremental 0.74 percent component due to UPPCO's make-whole portion and new debt issuance costs.

Impact Analysis of Proposed LT Debt Rate on Revenue Requirement				
		(a)	(b)	
		Rate Case	Proposed	
		U-20276	Transaction	
Line No.	Description	Amount (\$)	Amount (\$)	
1	Existing Long Term (LT) debt	108,200,000		Exhibit A-14 (GH-2): line 2, column (b)
2	Existing LT debt rate	4.46%		Exhibit A-14 (GH-2): line 2, column (e)
3	Existing ST debt	13,800,000		Exhibit A-14 (GH-2): line 10, column (b)
4	Existing ST debt rate	4.49%		Exhibit A-14 (GH-2): line 10, column (e)
5				
6	Proposed new LT debt		127,100,000	Exhibit A-14 (GH-2): line 24, column (b)
7	Proposed new LT debt rate		3.59%	Exhibit A-14 (GH-2): line 24, column (e)
8				
9	UPPCO's make-whole payment		27,756,000	Exhibit A-16 (GH-4): line 24
10	UPPCO's new debt issuance costs		508,400	40 basis points multiplied by \$127.1 million of new debt (line 6)
11	Years of amortization		30	term of new LT debt at UPPCO
12	Incremental effective debt rate from make-whole		0.74%	[(line 9 + line 10) divided by line 11] divided line 6
13	Proposed new effective LT debt rate		4.33%	line 12 plus line 7
14				
15	U-20276 Rate Base	268,046,402	268,046,402	Exhibit A-14 (GH-2): line 22, column (b)
16	After-tax WACC	6.91%	6.87%	Exhibit A-14 (GH-2): line 22, column (g)   line 44, column (g)
17	Allowed Income Requirement	18,522,006	18,406,474	line 14 multiplied by line 15
18				
19	<b>Increase / (Decrease) in Revenue Requirement</b>		<b>(115,533)</b>	line 17, column (b) minus line 17, column (a)

Representation of UPPCO's Regulated Capital Structure from most recent Rate Case (U-20276)									
Pre-closing									
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
Line No.	Description	Capital Structure			Cost Rate %	Weighted Cost			
		Amount	Percent Capital	Percent of Total Capital		Capital	Total Cost %	Conversion Factor	Pre-Tax Return
1									
2	Long-Term Debt	108,200,000	44.70%	40.37%	4.46%	2.00%	1.80%		1.80%
3									
4	Preferred Stock	-	0.00%	0.00%	0.00%	0.00%	0.00%		0.00%
5									
6	Common Shareholders' Equity	133,858,166	55.30%	49.94%	9.90%	5.47%	4.94%	1.3466	6.66%
7									
8	Total Permanent Capital	242,058,166	100.00%			7.47%			
9									
10	Short-Term Debt	13,795,491		5.15%	4.49%		0.23%		0.23%
11									
12	Job Development - ITC - Debt								
13	Job Development - ITC Equity								
14	Total Job Development - ITC	-		0.00%					
15									
16	Deferred Investment Tax Credit	-		0.00%			0.00%		0.00%
17									
18	Deferred Income Taxes (Net) - Federal	12,192,745		4.55%			0.00%		0.00%
19									
20	Capital Structure Adj	-		0.00%			0.00%		0.00%
21									
22	Total	268,046,402		100.00%			6.91% <sup>1</sup>		8.69%

**Footnotes**

<sup>1</sup> In U-20276, parties settled to 6.91% WACC - however, the "actual" value per this sheet would sum to 6.98% WACC.

**Representation of UPPCO's Regulated Capital Structure from Proposed Transaction (U-20995)**  
**Post-closing**

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
Line No.	Description	Capital Structure			Cost Rate %	Weighted Cost			
		Amount	Percent Capital	Percent of Total Capital		Capital	Total Cost %	Conversion Factor	Pre-Tax Return
23									
24	Long-Term Debt	127,100,000	<u>1</u> 48.71%	46.53%	4.33% <u>2</u>	2.11%	2.02%		2.02%
25									
26	Preferred Stock	-	0.00%	0.00%	0.00%	0.00%	0.00%		0.00%
27									
28	Common Shareholders' Equity	133,858,166	51.29%	49.01%	9.90%	5.08%	4.85%	1.3466	6.53%
29									
30	Total Permanent Capital	<u>260,958,166</u>	<u>100.00%</u>			<u>7.19%</u>			
31									
32	Short-Term Debt	- <u>3</u>		0.00%	2.00% <u>4</u>		0.00%		0.00%
33									
34	Job Development - ITC - Debt								
35	Job Development - ITC Equity								
36	Total Job Development - ITC	-		0.00%					
37									
38	Deferred Investment Tax Credit	-		0.00%			0.00%		0.00%
39									
40	Deferred Income Taxes (Net) - Federal	12,192,745		4.46%			0.00%		0.00%
41									
42	Capital Structure Adj	-		0.00%			0.00%		0.00%
43									
44	Total	<u>273,150,911</u>		<u>100.00%</u>			<u>6.87%</u> <u>5</u>		<u>8.55%</u>

**Footnotes**

- 1 \$127.1m of new LT Debt - primarily pays of intercompany note of \$108m and ST Debt
- 2 New lower effective LT debt rate of 4.33%, including make-whole and new debt issuance
- 3 \$75 million (capacity) ST Revolver - replaces existing revolver - used to fund CAPEX and balance deemed capital structure
- 4 New lower ST revolver rate estimated at 2.00%
- 5 New calculated lower after-tax WACC of 6.87% with above assumptions

<b>UPPER PENINSULA POWER COMPANY</b> <b>FERC BALANCE SHEET</b> <b>FOR THE PERIOD ENDING DECEMBER 31, 2020</b> <b>UNAUDITED</b>				
				<b>EXHIBIT C</b>
<b>Line No.</b>	<b>Title of Account (a)</b>	<b>Actual (b)</b>	<b>Journal Entry Adjustments (c)</b>	<b>Pro-forma Q4 2020 (d)</b>
<b>1</b>	<b>UTILITY PLANT</b>			
2	Utility Plant (101-106, 114)	372,849,516		372,849,516
3	Construction Work in Progress (107)	8,936,446		8,936,446
4	TOTAL Utility Plant (Enter Total of lines 2 and 3)	381,785,962		381,785,962
5	(Less) Accum. Prov. for Depr. Amort. Depl. (108, 110, 111, 115)	159,371,376		159,371,376
6	Net Utility Plant (Enter Total of line 4 less 5)	222,414,586		222,414,586
7	Nuclear Fuel in Process of Ref., Conv., Enrich., and Fab. (120.1)	-		-
8	Nuclear Fuel Materials and Assemblies-Stock Account (120.2)	-		-
9	Nuclear Fuel Assemblies in Reactor (120.3)	-		-
10	Spent Nuclear Fuel (120.4)	-		-
11	Nuclear Fuel Under Capital Leases (120.6)	-		-
12	(Less) Accum. Prov. for Amort. of Nucl. Fuel Assemblies (120.5)	-		-
13	Net Nuclear Fuel (Enter Total of lines 7-11 less 12)	-		-
14	Net Utility Plant (Enter Total of lines 6 and 13)	222,414,586		222,414,586
15	Utility Plant Adjustments (116)	-		-
16	Gas Stored Underground - Noncurrent (117)	-		-
<b>17</b>	<b>OTHER PROPERTY AND INVESTMENTS</b>			
18	Nonutility Property (121)	12,770,258		12,770,258
19	(Less) Accum. Prov. for Depr. and Amort. (122)	2,589,204		2,589,204
20	Investments in Associated Companies (123)	-		-
21	Investment in Subsidiary Companies (123.1)	-		-
22	(For Cost of Account 123.1, See Footnote Page 224, line 42)			
23	Noncurrent Portion of Allowances	-		-
24	Other Investments (124)	-		-
25	Sinking Funds (125)	-		-
26	Depreciation Fund (126)	-		-
27	Amortization Fund - Federal (127)	-		-
28	Other Special Funds (128)	22,305,039		22,305,039
29	Special Funds (Non Major Only) (129)	-		-
30		-		-
31	Long-Term Portion of Derivative Assets – Hedges (176)	-		-
32	TOTAL Other Property and Investments (Lines 18-21 and 23-31)	32,486,093		32,486,093
<b>33</b>	<b>CURRENT AND ACCRUED ASSETS</b>			
34	Cash and Working Funds (Non-major Only) (130)	-		-
35	Cash (131)	4,023,996	-	4,023,996
36	Special Deposits (132-134)	313,615		313,615
37	Working Fund (135)	-		-
38	Temporary Cash Investments (136)	-		-
39	Notes Receivable (141)	-		-
40	Customer Accounts Receivable (142)	7,320,840		7,320,840
41	Other Accounts Receivable (143)	1,762,126		1,762,126
42	(Less) Accum. Prov. for Uncollectible Acct.-Credit (144)	355,000		355,000
43	Notes Receivable from Associated Companies (145)	-		-
44	Accounts Receivable from Assoc. Companies (146)	-		-
45	Fuel Stock (151)	79,212		79,212
46	Fuel Stock Expenses Undistributed (152)	-		-
47	Residuals (Elec) and Extracted Products (153)	-		-
48	Plant Materials and Operating Supplies (154)	2,482,099		2,482,099
49	Merchandise (155)	-		-
50	Other Materials and Supplies (156)	-		-
51	Nuclear Materials Held for Sale (157)	-		-
52	Allowances (158.1 and 158.2)	-		-

<b>UPPER PENINSULA POWER COMPANY</b> <b>FERC BALANCE SHEET</b> <b>FOR THE PERIOD ENDING DECEMBER 31, 2020</b> <b>UNAUDITED</b>				
				<b>EXHIBIT C</b>
<b>Line No.</b>	<b>Title of Account (a)</b>	<b>Actual (b)</b>	<b>Journal Entry Adjustments (c)</b>	<b>Pro-forma Q4 2020 (d)</b>
53	(Less) Noncurrent Portion of Allowances	0		-
54	Stores Expense Undistributed (163)	926,273		926,273
55	Gas Stored Underground - Current (164.1)	-		-
56	Liquefied Natural Gas Stored and Held for Processing (164.2-164.3)	-		-
57	Prepayments (165)	975,761		975,761
58	Advances for Gas (166-167)	-		-
59	Interest and Dividends Receivable (171)	-		-
60	Rents Receivable (172)	-		-
61	Accrued Utility Revenues (173)	8,158,999		8,158,999
62	Miscellaneous Current and Accrued Assets (174)	1,292,146		1,292,146
63	Derivative Instrument Assets (175)	7,170		7,170
64	(Less) Long-Term Portion of Derivative Instrument Assets (175)	-		-
65	Derivative Instrument Assets - Hedges (176)	-		-
66	(Less) Long-Term Portion of Derivative Instrument Assets - Hedges (176)	-		-
67	Total Current and Accrued Assets (Lines 34 through 66)	26,987,237		26,987,237
68	<b>DEFERRED DEBITS</b>			
69	Unamortized Debt Expenses (181)	826,156	(317,756)	508,400
70	Extraordinary Property Losses (182.1)	-		-
71	Unrecovered Plant and Regulatory Study Costs (182.2)	-		-
72	Other Regulatory Assets (182.3)	35,213,704		35,213,704
73	Prelim. Survey and Investigation Charges (Electric) (183)	1,398,073		1,398,073
74	Preliminary Natural Gas Survey and Investigation Charges 183.1)	-		-
75	Other Preliminary Survey and Investigation Charges (183.2)	-		-
76	Clearing Accounts (184)	(159,724)		(159,724)
77	Temporary Facilities (185)	-		-
78	Miscellaneous Deferred Debits (186)	81,859		81,859
79	Def. Losses from Disposition of Utility Plt. (187)	-		-
80	Research, Devel. and Demonstration Expend. (188)	-		-
81	Unamortized Loss on Reaquired Debt (189)	-	28,582,156	28,582,156
82	Accumulated Deferred Income Taxes (190)	51,424,293		51,424,293
83	Unrecovered Purchased Gas Costs (191)	-		-
84	Total Deferred Debits (lines 69 through 83)	88,784,361		88,784,361
85	TOTAL ASSETS (lines 14-16, 32, 67, and 84)	370,672,277		370,672,277

**UPPER PENINSULA POWER COMPANY  
FERC BALANCE SHEET  
FOR THE PERIOD ENDING DECEMBER 31, 2020  
UNAUDITED**

**EXHIBIT C**

Line No.	Title of Account (a)	Actual (b)	Journal Entry Adjustments (c)	Pro-forma Q4 2020 (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	13,263,624		13,263,624
3	Preferred Stock Issued (204)	-		-
4	Capital Stock Subscribed (202, 205)	-		-
5	Stock Liability for Conversion (203, 206)	-		-
6	Premium on Capital Stock (207)	-		-
7	Other Paid-In Capital (208-211)	29,857,785		29,857,785
8	Installments Received on Capital Stock (212)	-		-
9	(Less) Discount on Capital Stock (213)	-		-
10	(Less) Capital Stock Expense (214)	-		-
11	Retained Earnings (215, 215.1, 216)	127,610,900		127,610,900
12	Unappropriated Undistributed Subsidiary Earnings (216.1)	-		-
13	(Less) Required Capital Stock (217)	-		-
14	Noncorporate Proprietorship (Non-major only) (218)	-		-
15	Accumulated Other Comprehensive Income (219)	-		-
16	Total Proprietary Capital (lines 2 through 15)	170,732,309		170,732,309
17	LONG-TERM DEBT			
18	Bonds (221)	-	127,100,000	127,100,000
19	(Less) Required Bonds (222)	-		-
20	Advances from Associated Companies (223)	108,200,000	(84,745,726)	23,454,274
21	Other Long-Term Debt (224)	4,147,800		4,147,800
22	Unamortized Premium on Long-Term Debt (225)	-		-
23	(Less) Unamortized Discount on Long-Term Debt-Debit (226)	-		-
24	Total Long-Term Debt (lines 18 through 23)	112,347,800		112,347,800
25	OTHER NONCURRENT LIABILITIES			
26	Obligations Under Capital Leases - Noncurrent (227)	-		-
27	Accumulated Provision for Property Insurance (228.1)	-		-
28	Accumulated Provision for Injuries and Damages (228.2)	-		-
29	Accumulated Provision for Pensions and Benefits (228.3)	2,513,790		2,513,790
30	Accumulated Miscellaneous Operating Provisions (228.4)	-		-
31	Accumulated Provision for Rate Refunds (229)	-		-
32	Long-Term Portion of Derivative Instrument Liabilities	-		-
33	Long-Term Portion of Derivative Instrument Liabilities - Hedges	-		-
34	Asset Retirement Obligations (230)	630,695		630,695
35	Total Other Noncurrent Liabilities (lines 26 through 34)	3,144,485		3,144,485
36	CURRENT AND ACCRUED LIABILITIES			
37	Notes Payable (231)	13,800,000	(13,800,000)	-
38	Accounts Payable (232)	6,258,051		6,258,051
39	Notes Payable to Associated Companies (233)	-		-
40	Accounts Payable to Associated Companies (234)	-		-
41	Customer Deposits (235)	2,000		2,000
42	Taxes Accrued (236)	2,729,242		2,729,242
43	Interest Accrued (237)	289,874	(289,874)	-
44	Dividends Declared (238)	-		-
45	Matured Long-Term Debt (239)	-		-

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**UPPER PENINSULA POWER COMPANY  
FERC BALANCE SHEET  
FOR THE PERIOD ENDING DECEMBER 31, 2020  
UNAUDITED**

**EXHIBIT C**

<b>Line No.</b>	<b>Title of Account (a)</b>	<b>Actual (b)</b>	<b>Journal Entry Adjustments (c)</b>	<b>Pro-forma Q4 2020 (d)</b>
46	Matured Interest (240)	-		-
47	Tax Collections Payable (241)	-		-
48	Miscellaneous Current and Accrued Liabilities (242)	4,293,872		4,293,872
49	Obligations Under Capital Leases-Current (243)	-		-
50	Derivative Instrument Liabilities (244)	-		-
51	(Less) Long-Term Portion of Derivative Instrument Liabilities	-		-
52	Derivative Instrument Liabilities - Hedges (245)	-		-
53	(Less) Long-Term Portion of Derivative Instrument Liabilities-Hedges	-		-
54	Total Current and Accrued Liabilities (lines 37 through 53)	27,373,039		27,373,039
55	DEFERRED CREDITS			-
56	Customer Advances for Construction (252)	2,492,344		2,492,344
57	Accumulated Deferred Investment Tax Credits (255)	-		-
58	Deferred Gains from Disposition of Utility Plant (256)	-		-
59	Other Deferred Credits (253)	4,395,169		4,395,169
60	Other Regulatory Liabilities (254)	5,435,746		5,435,746
61	Unamortized Gain on Reacquired Debt (257)	-		-
62	Accum. Deferred Income Taxes-Accel. Amort.(281)	-		-
63	Accum. Deferred Income Taxes-Other Property (282)	20,425,126		20,425,126
64	Accum. Deferred Income Taxes-Other (283)	24,326,259		24,326,259
65	Total Deferred Credits (lines 56 through 64)	57,074,644		57,074,644
66	TOTAL LIABILITIES AND STOCKHOLDER EQUITY (lines 16, 24, 35, 54)	370,672,277		370,672,277

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**UPPER PENINSULA POWER COMPANY  
FERC INCOME STATEMENT  
FOR THE PERIOD ENDING DECEMBER 31, 2020  
UNAUDITED**

**EXHIBIT D**

<b>Line No.</b>	<b>Title of Account (a)</b>	<b>Actual (b)</b>	<b>Journal Entry Adjustments (c)</b>	<b>Pro-forma Q4 2020 (d)</b>
1	UTILITY OPERATING INCOME			
2	Operating Revenues (400)	106,265,173		106,265,173
3	Operating Expenses			
4	Operation Expenses (401)	56,222,278		56,222,278
5	Maintenance Expenses (402)	8,783,556		8,783,556
6	Depreciation Expense (403)	9,273,717		9,273,717
7	Depreciation Expense for Asset Retirement Costs (403.1)	(19,961)		(19,961)
8	Amort. & Depl. of Utility Plant (404-405)	2,480,065		2,480,065
9	Amort. of Utility Plant Acq. Adj. (406)			-
10	Amort. Property Losses, Unrecov Plant and Regulatory Study Costs (407)			-
11	Amort. of Conversion Expenses (407)			-
12	Regulatory Debits (407.3)			-
13	(Less) Regulatory Credits (407.4)			-
14	Taxes Other Than Income Taxes (408.1)	7,318,275		7,318,275
15	Income Taxes - Federal (409.1)			-
16	- Other (409.1)			-
17	Provision for Deferred Income Taxes (410.1)	64,749,725		64,749,725
18	(Less) Provision for Deferred Income Taxes-Cr. (411.1)	64,689,010		64,689,010
19	Investment Tax Credit Adj. - Net (411.4)			-
20	(Less) Gains from Disp. of Utility Plant (411.6)			-
21	Losses from Disp. of Utility Plant (411.7)			-
22	(Less) Gains from Disposition of Allowances (411.8)			-
23	Losses from Disposition of Allowances (411.9)			-
24	Accretion Expense (411.10)			-
25	TOTAL Utility Operating Expenses (Enter Total of lines 4 thru 24)	84,118,645		84,118,645
26	Net Util Oper Inc (Enter Tot line 2 less 25) Carry to Pg117,line 27	22,146,528		22,146,528

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**UPPER PENINSULA POWER COMPANY  
FERC INCOME STATEMENT  
FOR THE PERIOD ENDING DECEMBER 31, 2020  
UNAUDITED**

**EXHIBIT D**

Line No.	Title of Account (a)	Actual (b)	Journal Entry Adjustments (c)	Pro-forma Q4 2020 (d)
27	Net Utility Operating Income (Carried forward from page 114)	22,146,528		22,146,528
28	Other Income and Deductions			
29	Other Income			
30	Nonutility Operating Income			
31	Revenues From Merchandising, Jobbing and Contract Work (415)			-
32	(Less) Costs and Exp. of Merchandising, Job. & Contract Work (416)			-
33	Revenues From Nonutility Operations (417)	1,428,419		1,428,419
34	(Less) Expenses of Nonutility Operations (417.1)	938,259		938,259
35	Nonoperating Rental Income (418)			-
36	Equity in Earnings of Subsidiary Companies (418.1)			-
37	Interest and Dividend Income (419)	2,250		2,250
38	Allowance for Other Funds Used During Construction (419.1)	226,063		226,063
39	Miscellaneous Nonoperating Income (421)			-
40	Gain on Disposition of Property (421.1)	(45,903)		(45,903)
41	TOTAL Other Income (Enter Total of lines 31 thru 40)	672,570		672,570
42	Other Income Deductions			
43	Loss on Disposition of Property (421.2)	50,885		50,885
44	Miscellaneous Amortization (425)			-
45	Donations (426.1)	95,305		95,305
46	Life Insurance (426.2)			-
47	Penalties (426.3)	3,830		3,830
48	Exp. for Certain Civic, Political & Related Activities (426.4)			-
49	Other Deductions (426.5)	10,519		10,519
50	TOTAL Other Income Deductions (Total of lines 43 thru 49)	160,539		160,539
51	Taxes Applicable to Other Income and Deductions			
52	Taxes Other Than Income Taxes (408.2)	75,013		75,013
53	Income Taxes-Federal (409.2)			-
54	Income Taxes-Other (409.2)			-
55	Provision for Deferred Inc. Taxes (410.2)	27,121,953		27,121,953
56	(Less) Provision for Deferred Income Taxes-Cr. (411.2)	23,945,118		23,945,118
57	Investment Tax Credit Adj.-Net (411.5)			-
58	(Less) Investment Tax Credits (420)			-
59	TOTAL Taxes on Other Income and Deductions (Total of lines 52-58)	3,251,847		3,251,847
60	Net Other Income and Deductions (Total of lines 41, 50, 59)	(2,739,816)		(2,739,816)
61	Interest Charges			
62	Interest on Long-Term Debt (427)			-
63	Amort. of Debt Disc. and Expense (428)	101,506		101,506
64	Amortization of Loss on Required Debt (428.1)			-
65	(Less) Amort. of Premium on Debt-Credit (429)			-
66	(Less) Amortization of Gain on Required Debt-Credit (429.1)			-
67	Interest on Debt to Assoc. Companies (430)	5,829,441		5,829,441
68	Other Interest Expense (431)	439,883		439,883
69	(Less) Allowance for Borrowed Funds Used During Construction-Cr.	85,235		85,235
70	Net Interest Charges (Total of lines 62 thru 69)	6,285,595		6,285,595
71	Income Before Extraordinary Items (Total of lines 27, 60 and 70)	13,121,117		13,121,117
72	Extraordinary Items			
73	Extraordinary Income (434)			-
74	(Less) Extraordinary Deductions (435)			-
75	Net Extraordinary Items (Total of line 73 less line 74)			-
76	Income Taxes-Federal and Other (409.3)			-
77	Extraordinary Items After Taxes (line 75 less line 76)			-
78	Net Income (Total of line 71 and 77)	13,121,117	0	13,121,117

Page 6

**UPPER PENINSULA POWER COMPANY  
FERC STATEMENT OF CASH FLOWS  
FOR THE PERIOD ENDING DECEMBER 31, 2020  
UNAUDITED**

**EXHIBIT E**

Line No.	Title of Account (a)	Actual (b)	Journal Entry Adjustments (c)	Pro-forma Q4 2020 (d)
1	Net Cash Flow from Operating Activities:			
2	Net Income (Line 78(c) on page 117)	13,121,116		13,121,116
3	Noncash Charges (Credits) to Income:			
4	Depreciation and Depletion	11,950,494		11,950,494
5	Amortization of			-
6				-
7				-
8	Deferred Income Taxes (Net)	4,491,157		4,491,157
9	Investment Tax Credit Adjustment (Net)			-
10	Net (Increase) Decrease in Receivables	(2,162,060)		(2,162,060)
11	Net (Increase) Decrease in Inventory	(236,821)		(236,821)
12	Net (Increase) Decrease in Allowances Inventory			-
13	Net Increase (Decrease) in Payables and Accrued Expenses	(2,203,909)	(289,874)	(2,493,783)
14	Net (Increase) Decrease in Other Regulatory Assets	(347,833)		(347,833)
15	Net Increase (Decrease) in Other Regulatory Liabilities	231,540		231,540
16	(Less) Allowance for Other Funds Used During Construction	85,236		85,236
17	(Less) Undistributed Earnings from Subsidiary Companies			-
18	Other (provide details in footnote):	(1,000,000)	(27,756,000)	(28,756,000)
19	Pension and Post Retirement Expense	763,441		763,441
20	Other Changes in Working Capital besides Cash	(39,489)		(39,489)
21	Collateral on Deposit			-
22	Net Cash Provided by (Used in) Operating Activities (Total 2 thru 21)	24,652,872	(28,045,874)	(3,393,002)
23				-
24	Cash Flows from Investment Activities:			-
25	Construction and Acquisition of Plant (including land):			-
26	Gross Additions to Utility Plant (less nuclear fuel)	(18,044,700)		(18,044,700)
27	Gross Additions to Nuclear Fuel			-
28	Gross Additions to Common Utility Plant			-
29	Gross Additions to Nonutility Plant			-
30	(Less) Allowance for Other Funds Used During Construction			-
31	Other (provide details in footnote):			-
32	Proceeds from the sale or disposal of assets			-
33				-
34	Cash Outflows for Plant (Total of lines 26 thru 33)	(18,044,700)		(18,044,700)
35				-
36	Acquisition of Other Noncurrent Assets (d)			-
37	Proceeds from Disposal of Noncurrent Assets (d)			-
38				-
39	Investments in and Advances to Assoc. and Subsidiary Companies			-
40	Contributions and Advances from Assoc. and Subsidiary Companies			-
41	Disposition of Investments in (and Advances to)			-
42	Associated and Subsidiary Companies			-
43				-
44	Purchase of Investment Securities (a)			-
45	Proceeds from Sales of Investment Securities (a)			-

**UPPER PENINSULA POWER COMPANY  
FERC STATEMENT OF CASH FLOWS  
FOR THE PERIOD ENDING DECEMBER 31, 2020  
UNAUDITED**

**EXHIBIT E**

Line No.	Title of Account (a)	Actual (b)	Journal Entry Adjustments (c)	Pro-forma Q4 2020 (d)
46	Loans Made or Purchased			-
47	Collections on Loans			-
48				-
49	Net (Increase) Decrease in Receivables			-
50	Net (Increase ) Decrease in Inventory			-
51	Net (Increase) Decrease in Allowances Held for Speculation			-
52	Net Increase (Decrease) in Payables and Accrued Expenses			-
53	Other (provide details in footnote):			-
54				-
55				-
56	Net Cash Provided by (Used in) Investing Activities			
57	Total of lines 34 thru 55)	(18,044,700)		(18,044,700)
58				
59	Cash Flows from Financing Activities:			
60	Proceeds from Issuance of:			
61	Long-Term Debt (b)	4,147,800	126,591,600	130,739,400
62	Preferred Stock			-
63	Common Stock			-
64	Other (provide details in footnote):			-
65	Advances from Associated Companies (223)		23,454,274	23,454,274
66	Net Increase in Short-Term Debt (c)	5,000,000		5,000,000
67	Other (provide details in footnote):			-
68				-
69				-
70	Cash Provided by Outside Sources (Total 61 thru 69)	9,147,800	150,045,874	159,193,674
71				-
72	Payments for Retirement of:			
73	Long-term Debt (b)		(108,200,000)	(108,200,000)
74	Preferred Stock			-
75	Common Stock			-
76	Other (provide details in footnote):			-
77	Return of Capital to Parent	(12,862,899)		(12,862,899)
78	Net Decrease in Short-Term Debt (c)	(1,100,000)	(13,800,000)	(14,900,000)
79				-
80	Dividends on Preferred Stock			-
81	Dividends on Common Stock			-
82	Net Cash Provided by (Used in) Financing Activities			
83	(Total of lines 70 thru 81)	(4,815,099)	28,045,874	23,230,775
84				
85	Net Increase (Decrease) in Cash and Cash Equivalents			
86	(Total of lines 22,57 and 83)	1,793,073	-	1,793,073
87				
88	Cash and Cash Equivalents at Beginning of Period	2,230,922		2,230,922
89				
90	Cash and Cash Equivalents at End of period	4,023,995	-	4,023,995

**Page 8**

UPPER PENINSULA POWER COMPANY  
PRO-FORMA JOURNAL ENTRIES  
FOR PERIOD ENDED DECEMBER 31, 2020

Line		(a)	(b)
	<b><u>JE # Account</u></b>	<b><u>Dr</u></b>	<b><u>Cr</u></b>
1			
2	1 <i>Sr. Debenture note taken out at UPPCO from Lending institution:</i>		
3	Cash (131)	127,100,000	
4			
5	Bonds (221)		127,100,000
6			
7	2 <i>To record extinguishment of Notes Payable w/UPPHC (Interco N/P)</i>		
8	Advances from Associated Companies (223)	108,200,000	
9	Cash (131)		108,200,000
10			
11	3 <i>To record extinguishment of Notes Payable / Short-term Debt (Assoc Bank)</i>		
12	Notes Payable (231)	13,800,000	
13	Cash (131)		13,800,000
14			
15			
16			
17			
18			
19	4 <i>To record the Equity Infusion from UPPHC to fund UPPCO's apportioned Make Whole Payment</i>		
20	Cash (131)	23,454,274	
21	Advances from Associated Companies (223)		23,454,274
22			
23	5 <i>To record UPPCO's portion of Make Whole Payment to the Note Holders</i>		
24	Loss on Reacquired Debt (189)	27,756,000	
25	Cash (131)		27,756,000
26			
34			
35	6 <i>To record Short-term debt interest payment at extinguishment</i>		
36	Interest Accrued (237)	18,825	
37	Cash (131)		18,825
38			
39	7 <i>To record LTD interest payment at extinguishment</i>		
40	Interest Accrued (237)	271,049	
41	Cash (131)		271,049
42			
43	8 <i>To record write-off of unamortized Debt Issuance costs to Loss on Reacquired Debt</i>		
44	Loss on Reacquired Debt (189)	826,156	
45	Unamortized Debt Issuance Costs (181)		826,156
46			
47			
48			
49			
50			
51			
52			
53	9 <i>To record New Debt Issuance Costs</i>		
54	Unamortized Debt Issuance Costs (181)	508,400	
55	Cash (131)		508,400
56			
57			
58	UPPER PENINSULA POWER COMPANY		
59	<b><u>Summary of Adjustments</u></b>	<b><u>Dr</u></b>	<b><u>Cr</u></b>
60	* Cash (131)	150,554,274	150,554,274
61	* Notes Payable (231)	13,800,000	-
62	* Bonds (221)		127,100,000
63	* Unamortized Debt Issuance Costs (181)	508,400	826,156
64	* Interest Accrued (237)	289,874	-
65	* Advances from Associated Companies (223)	108,200,000	23,454,274
66	* Other Long-Term Debt (224)		
67	* Other Paid-In Capital (208-211)		
68	* Loss on Reacquired Debt (189)	28,582,156	
69		Total	301,934,704
70			
71		<i>Net Cash</i>	-
72		Assets	28,264,400
73		Liabilities	(28,264,400)
74		Equity	-
75			28,264,400
76			(28,264,400)

\* = amounts subject to change; contingent on timing of transaction

UPPER PENINSULA POWER HOLDING COMPANY  
PRO-FORMA JOURNAL ENTRIES  
FOR PERIOD ENDED DECEMBER 31, 2020

Line	JE #	Account	(a) Dr	(b) Cr
77				
78	1	<u>Sr. Debenture note taken out at UPPHC and distribution to Axium UP LLC</u>		
79		Cash (131)		
80		Additional Paid-In Capital (207)		
81		Bonds (221)		230,000,000
82				
83	2	<u>To record extinguishment of Notes Payable w/UPPHC (Interco N/P)</u>		
84		Cash (131)	108,200,000	
85		Long-Term N/P to Affiliate (223)		108,200,000
86				
87	3	<u>To record extinguishment of Notes Payable / Short-term Debt (Assoc Bank)</u>		
88		Notes Payable (231)	7,700,000	
89		Cash (131)		7,700,000
90				
91	4	<u>To record LTD principle payment to LTD Note Holders</u>		
92		Other Long-Term Debt (224)	200,000,000	
93		Cash (131)		200,000,000
94				
95	5	<u>To record the Equity Infusion from UPPHC to fund UPPCO's apportioned Make Whole Payment</u>		
96		Long-Term N/P to Affiliate (223)	23,454,274	
97		Cash (131)		23,454,274
98				
99	6	<u>To record the payment to LTD Note Holders for the Make Whole Payment due to early extinguishment of debt</u>		
100		Loss on Recquired Debt (189)	23,644,000	
101		Cash (131)		23,644,000
102				
103				
104				
105				
106				
107				
108				
109				
110				
111	7	<u>To record Short-term debt interest payment at extinguishment</u>		
112		Interest Accrued (237)	35,190	
113		Cash (131)		35,190
114				
115	8	<u>To record LTD interest payment at extinguishment</u>		
116		Interest Accrued (237)	2,885,289	
117		Cash (131)		2,885,289
118				
119	9	<u>To record write-off of unamortized Debt Issuance costs to Loss on Recquired Debt</u>		
120		Loss on Recquired Debt (189)	751,650	
121		Unamortized Debt Issuance Costs (181)		751,650
122				
123				
124				
125				
126				
127				
128				
129	10	<u>To record New Debt Issuance Costs</u>		
130		Unamortized Debt Issuance Costs (181)	920,000	
131		Cash (131)		920,000
132				
133				
134		UPPER PENINSULA POWER HOLDING COMPANY		
135		<u>Summary of Adjustments</u>	<u>Dr</u>	<u>Cr</u>
136	*	Cash (131)		
137	*	Notes Payable (231)	7,700,000	-
138	*	Bonds (221)	-	230,000,000
139	*	Unamortized Debt Issuance Costs (181)	920,000	751,650
140	*	Interest Accrued (237)	2,920,479	-
141	*	Long-Term N/P to Affiliate (223)	23,454,274	108,200,000
142	*	Other Long-Term Debt (224)	200,000,000	-
143	*	Additional Paid-In Capital (207)		
144	*	Loss on Recquired Debt (189)	24,395,650	
145		Total		
146				
147		Net Cash		
148		Assets		
149		Liabilities		
150		Equity		
151				
152		* = amounts subject to change; contingent on timing of transaction		

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
PUBLIC SERVICE COMMISSION

**ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING**

This form is issued as provided for by 1939 PA 3, as amended, and by 1933 PA 254, as amended. The filing of this form, or an acceptable alternative, is necessary to ensure subsequent service of any hearing notices, Commission orders, and related hearing documents.

**General Instructions:**

Type or print legibly in ink. For assistance or clarification, please contact the Public Service Commission at (517) 284-8090.

***Please Note:*** The Commission will provide electronic service of documents to all parties in this proceeding.

**THIS APPEARANCE TO BE ENTERED IN ASSOCIATION WITH THE ADMINISTRATIVE HEARING:**

Case / Company Name: \_\_\_\_\_ Docket No. \_\_\_\_\_

Please enter my appearance in the above-entitled matter on behalf of:

1. (Name)
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Email \_\_\_\_\_

Date \_\_\_\_\_

Signature: \_\_\_\_\_

☐ I am not an attorney

☐ I am an attorney whose:

Michigan Bar # is P- \_\_\_\_\_

\_\_\_\_\_ Bar # is: \_\_\_\_\_  
( state )

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EAHR1 - 09/29/2016

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
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\_\_\_\_\_

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Zip \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Email \_\_\_\_\_

Date \_\_\_\_\_

☐ I am not an attorney

☐ I am an attorney whose:

Michigan Bar # is P- \_\_\_\_\_

\_\_\_\_\_ Bar # is: \_\_\_\_\_  
( state )

Signature: \_\_\_\_\_

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Name \_\_\_\_\_

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\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Email \_\_\_\_\_

Date \_\_\_\_\_

☐ I am not an attorney

☐ I am an attorney whose:

Michigan Bar # is P- \_\_\_\_\_

\_\_\_\_\_ Bar # is: \_\_\_\_\_  
( state )

Signature: \_\_\_\_\_

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EAHR1 - 09/29/2016

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5. (Name)
6. (Name)
7. (Name)

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Address \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Email \_\_\_\_\_

Date \_\_\_\_\_

☐ I am not an attorney

☐ I am an attorney whose:

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\_\_\_\_\_ Bar # is: \_\_\_\_\_  
( state )

Signature: \_\_\_\_\_

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EAHR1 - 09/29/2016

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4. (Name)
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6. (Name)
7. (Name)

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_

Zip \_\_\_\_\_ Phone (\_\_\_\_) \_\_\_\_\_

Email \_\_\_\_\_

Date \_\_\_\_\_

☐ I am not an attorney

☐ I am an attorney whose:

Michigan Bar # is P- \_\_\_\_\_

\_\_\_\_\_ Bar # is: \_\_\_\_\_  
( state )

Signature: \_\_\_\_\_

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EAHR1 - 09/29/2016

In the matter of the joint application of	)	
<b>AXIUM UP HOLDINGS LLC and LAKE AIV, L.P.,</b>	)	
for approval, pursuant to MCL 460.6q, for the transfer of	)	
control of <b>UPPER PENINSULA POWER</b>	)	Case No. U-20995
<b>COMPANY,</b> and related approvals.	)	
	)	

---

### PROOF OF SERVICE

Allison Kellogg, being first duly sworn, deposes and states that on February 26, 2021, she served the (i) the Joint Application of Axium UP Holdings LLC and Lake AIV, L.P., for approval, pursuant to MCL 460.6q, for the transfer of control of Upper Peninsula Power Company and related approvals. Also enclosed herewith is the (ii) Notice Opportunity to Comment, (iii) Proposed Notice of Hearing, Proposed Protective Order, and (iv) Direct Testimonies and Exhibits of Jeffrey R. Neil, Thierry Vandal, Paulo Arencibia, and Gradon Haehnel, together with this Proof of Service upon the parties set forth in the attached service list via electronic mail.

---

Allison R. Kellogg

Subscribed and sworn before me  
on this 26th day of February, 2021.

---

Walter A Lanza, Notary Public  
State of Michigan, County of Saginaw  
My Commission Expires: September 19, 2026  
Acting in the County of Ingham

**SERVICE LIST**  
**MPSC Case #U-20995**

**Attorney General**

Michael E. Moody (P51985)  
Public Service Division  
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Lansing, MI 48917  
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[ag-enra-spec-lit@michigan.gov](mailto:ag-enra-spec-lit@michigan.gov)

**Citizens Against Rate Excess**  
**(CARE)**

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Constance De Young Groh  
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**(ABATE)**

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**Verso Corporation**

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