



FLORIDA MUNICIPAL SOLAR PROJECT

ARP SOLAR PROJECT PARTICIPANTS ADVISORY COMMITTEE

AGENDA PACKAGE

Telephonic Meeting

August 7, 2019

1:00 p.m.

877-668-4493 or 650-479-3208

Meeting Number 738 683 563#

Florida Municipal Solar Project (FMSP)

Rodolfo Valladares, Alachua
Brad Hiers, Bartow
Billy Branch, Homestead
Ed Liberty, Lake Worth
James Braddock, Wauchula
Mark Brown, Winter Park

ARP Solar Project Participants Advisory Committee

Paul Jakubczak, Fort Pierce
Karen Nelson, Jacksonville Beach
Lynne Tejeda, Key West
Larry Mattern, Kissimmee
Mike Poucher, Ocala

Meeting Location

Via Telephone at

Florida Municipal Power Agency

8553 Commodity Circle

Orlando, FL 32819

(407) 355-7767



MEMORANDUM

TO: FMIPA Solar Project Committee and ARP Solar Project Advisory Committee
FROM: Jacob Williams
DATE: July 31, 2019
SUBJECT: Joint Telephonic Meeting for FMIPA Solar Project Committee and ARP Solar Project Advisory Committee
Wednesday, August 7, 2019 at 1:00 p.m.

DIAL-IN INFORMATION: 877-668-4493 or 650-479-3208

Access Code 738 683 563#

(If you have trouble connecting via phone or internet, please call 407-355-7767)

AGENDA

1. Call to Order, Roll Call, Declaration of Quorum
2. Set Agenda (by vote)
3. Public Comment (Individual public comments limited to 3 minutes)
4. Action Items:
 - a. Approval of Poinsett Site Relocation (Chris Gowder / Susan Schumann)
5. Information Items:
 - a. None
6. Comments
7. Adjournment

The participants in the above referenced public meeting will conduct the public meeting by telephone, via a telephone conference hookup. There will be a speaker telephone made available for any interested person to attend this public meeting and be fully informed of the discussions taking place by telephone conference hookup at FMIPA's headquarters, located at 8553 Commodity Circle, Orlando, Florida 32819-9002. If anyone chooses to appeal any decision that may be made at this public meeting, such person will need a record of the proceedings and should accordingly ensure that a verbatim record of the proceedings is made, which includes the oral statements and evidence upon which such appeal is based. This public meeting may be continued to a date and time certain, which will be announced at the meeting. Any person requiring a special accommodation to participate in this public meeting because of a disability, should contact FMIPA at (407) 355-7767 or 1-(888)-774-7606, at least two (2) business days in advance to make appropriate arrangements. Any interested person may contact FMIPA for more information on this public meeting by calling (850) 297-2011 or (877) 297-2012 or writing to: Open Government Law Compliance Coordinator, Florida Municipal Power Agency, 2061-2 Delta Way, Post Office Box 3209, Tallahassee, Florida 32315-3209.

**AGENDA ITEM 1 – CALL TO ORDER,
ROLL CALL, DECLARATION OF QUORUM**

ARP Solar Participants Advisory Committee

August 7, 2019

AGENDA ITEM 2 – SET AGENDA (By Vote)

ARP Solar Participants Advisory Committee

August 7, 2019

AGENDA ITEM 3 – PUBLIC COMMENTS

ARP Solar Participants Advisory Committee

August 7, 2019

AGENDA ITEM 4 – ACTION ITEMS

- a) Approval of Poinsett Site Relocation (Chris Gowder / Susan Schumann)**

ARP Solar Participants Advisory Committee

August 7, 2019



Poinsett Facility Re-location

Joint Meeting of the
ARP Solar Participants Advisory Committee and
FMIPA Solar Project Committee

August 7, 2019

Florida Municipal Solar Project

Facility Allocations for Phase I Participants

Facility (Interconnection)	Capacity	OUC	ARP	Solar Project
Taylor Creek (OUC)	74.5	74.5	0.0	0.0
Harmony (OUC)	74.5	34.0	40.5	0.0
Poinsett (DEF)	74.5	0.0	17.5	57.0
Total	223.5 MW	108.5 MW	58.0 MW	57.0 MW

Poinsett Site Interconnection Process Behind Schedule

Possible Re-location to Alternate Site in Columbia County

- Florida Renewable Partners (FRP) is requesting re-location of Poinsett site due to significant Duke Energy Interconnection study delays
 - Poinsett Site facing potential 12 – 18 month delay
 - Alternate Site has more favorable queue position (likely 3 – 6 month delay)
 - Exploring additional alternate sites that may have even more favorable position
- Both PPAs (Project and ARP) will require Amendment
 - No changes to core commercial terms
 - Changes associated with name, description, location, and milestone dates
 - Guaranteed COD, price, and production guarantees to remain the same

Poinsett Site Interconnection Process Behind Schedule

Possible Re-location to Alternate Site in Columbia County

- Amendment of the PPAs to allow site relocation is the preferred avenue to achieve the intended commercial operation date and original terms and conditions of the agreement
- Other approaches include:
 - Do nothing and wait for commercial operation
 - Could be well into 2021
 - Wait and decide on amendment later
 - Activity on alternate sites not likely to proceed without amendment/agreement
 - Mutually agree to terminate the agreement
 - FRP unlikely to agree

Proposed PPA Amendments

COD, Price, Production to Remain the Same

- All references to “Osceola County” or “Osceola County, Florida” shall be amended to “Columbia County” or Columbia County, Florida”
- Requires FRP to reimburse FMPA for redundant Transmission Service Study costs
 - Results in Participants only paying study costs once
 - New Transmission Service Requests and System Impact Study Agreements
- Exhibit C - Description of Delivery Point and One-Line Diagram
 - Revise and Replace with new Exhibit C with diagram of new site
- Exhibit I – Site Description; Map
 - Revise and Replace with new Exhibit I describing new site
- Exhibit K – Milestones with Delay Damages
 - Revise “Permit Received” milestone date to May 15, 2020
 - Revise “Start of Construction” milestone date to April 1, 2020

Proposed PPA Amendments

COD, Price, Production to Remain the Same

- Additional language to allow for change to more favorable site prior to end of 2019
 - The following conditions must be met:
 - Alternate site must be on DEF transmission system
 - DEF queue position must be more favorable than Poinsett site
 - Written notice of change in Project location is required by FRP
 - FMPPA shall provide written consent for such change in location
 - Allow for Senior Management to approve clerical amendments (i.e. – items on previous slide) without further approval of governing bodies
- PPAs will be assigned to new subsidiary of FRP once final location is settled
 - May require BOD and EC approval of an Assignment Agreement

Action Required by Each Committee

- The draft Amendment, using the ARP PPA as a template, is attached.
- The same language will be used for the Amendment to the Solar Project PPA.
- Recommended motions for each Committee to act on separately follow.

Solar Project Committee Recommended Action

- Move to recommend the FMPA Board of Directors approve the First Amendment to the Solar Project Renewable Energy Power Purchase Agreement Between Florida Municipal Power Agency and Poinsett Solar, LLC for the purpose of re-locating the Poinsett Solar facility to an alternate location in Columbia County or other more favorable location.

ARP Solar Participants Advisory Committee

Recommended Action

- Move to recommend the FMPA Executive Committee approve the First Amendment to the ARP Renewable Energy Power Purchase Agreement Between Florida Municipal Power Agency and Poinsett Solar, LLC for the purpose of re-locating the Poinsett Solar facility to an alternate location in Columbia County or other more favorable location.

**FIRST AMENDMENT TO THE
RENEWABLE ENERGY POWER PURCHASE AGREEMENT
BETWEEN FLORIDA MUNICIPAL POWER AGENCY AND POINSETT SOLAR, LLC.
DATED AS OF MAY 16, 2018
(FMPA ALL-REQUIREMENTS POWER SUPPLY PROJECT)**

This FIRST AMENDMENT TO THE RENEWABLE ENERGY POWER PURCHASE AGREEMENT (this “First Amendment”) is made and entered into as of 2019 (the “Amendment Date”), by and between Florida Municipal Power Agency, a governmental joint action agency organized and existing under Florida law (“Buyer”) and Poinsett Solar, LLC, a Delaware limited liability Company (“Seller”). Each of Seller and Buyer hereinafter sometimes are referred to individually as a “Party” and collectively as the “Parties.”

WHEREAS, Buyer and Seller entered into that certain Renewable Energy Power Purchase Agreement dated as of May 16, 2018 (for the sole purpose of delineating such agreement from a similarly named and dated agreement between the Parties, at the time of this First Amendment Section 20.11 of such agreement states that, among other things, “all costs and liabilities of Buyer hereunder are payable solely from the revenues and funds of the FMPA All-Requirements Power Supply Project”) (as to such agreement, the “Agreement”);

WHEREAS, the Agreement provides for, among other things, Seller’s development of a photovoltaic solar energy generation facility of approximately 74.5 MWAC aggregate nameplate capacity, known as the Poinsett project, on a site facility to be located in Osceola County, Florida;

WHEREAS, the Parties desire to amend the Agreement on the terms and conditions set forth herein;

NOW THEREFORE, in consideration of the covenants and conditions hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

Section 1. Unless otherwise defined herein, capitalized terms used in this First Amendment have the meaning set forth in the Agreement.

Section 2. The following sections of the Agreement are hereby amended as follows.

- (a) Except as otherwise clearly indicated by the context (including, without limitation, to the references in each of the second introductory clause and Exhibit O to a different facility (known as the Holopaw project) being built in Osceola County), all references in the Agreement to “Osceola County” and “Osceola County, Florida”, respectively, are hereby deleted and replaced with “Columbia County” and “Columbia County, Florida”, respectively
- (b) Section 1.1 of the Agreement is hereby amended by:

- i. Deleting the reference to “Section 4.1(i)” in the definition of “*Interim Milestone*” and replacing it with “Section 4.1(a)(ix)”.
 - ii. Deleting the reference to “Section 4.1(j)” in the definition of “*Milestone Daily Delay Damages Cap*” and replacing it with “Section 4.1(a)(x)”.
- (c) Section 4.1 of the Agreement is hereby amended by:

- i. Adding an “(a)” in front of the line “Seller, at no cost to Buyer, shall:” so that such line and all of the original language in Section 4.1 of the Agreement is now a subsection to be referred to as Section 4.1(a).
- ii. Deleting the lettering of the original subsections (a) through (k) and replacing such lettering with romanettes (i) through (xi), respectively, so that the first such subsection is to be referred to as Section 4.1(a)(i), the second such subsection is to be referred to as Section 4.1(a)(ii), and so on;
- iii. Adding the following new subsections (b) and (c) as set forth below:

“(b) Notwithstanding anything to the contrary in this Agreement, at any time and from time to time on or before December 31, 2019, Seller may, at its discretion, change the location of the Project, including, without limitation, the Site, to an alternative location (which such location may be, but is not required to be, in Columbia County, Florida), provided that the following conditions are met:

- (i) The new Project location shall be located on the Transmission Provider’s transmission system;
- (ii) Seller shall have secured a Transmission Provider Network Resource Interconnection Service queue position earlier than position Q207;
- (iii) Seller shall have provided Notice to Buyer of its intention to change the Project location;
- (iv) Seller shall have received from Buyer written consent for such change, which such consent may not be unreasonably withheld, conditioned or delayed, and which such consent will automatically be deemed to have been granted on the day that is thirty (30) days from the date of Buyer’s receipt of Seller’s Notice pursuant to Section 4.1(b)(iii) unless, before such day, Buyer provides Seller with a Notice, subject to the reasonability requirements of this Section 4.1(b)(iv), objecting to Seller’s intent to so change the Project location;
- (v) Except as provided in Section 4.1(c), all other terms and conditions of the Agreement shall remain unchanged and in full force and effect as to any Project location change pursuant to this Section 4.1(b).

(c) In the event of a Project location change pursuant to Section 4.1(b), Buyer and Seller agree to work together in good faith to make the appropriate clerical amendments to this Agreement to effectuate such location change, which may include, without limitation and as applicable, change to the Project name, location, site description, one-line diagram, map, and milestone dates, among others. The Parties hereby agree that such amendments may be agreed to by the Parties' senior management without further approval of the respective governing bodies, and each Party respectively represents that its senior management has the authority and approvals necessary to negotiate, enter into, and effectuate such amendments. Subject to this Section 4.1(c), all other terms and conditions of this Agreement shall survive and shall apply to such new Project location."

(d) Section 4.2 of the Agreement is hereby amended by adding the following new subsection (c):

"(c) If Buyer has incurred transmission service study costs from the Transmission Provider for Feasibility Studies, System Impact Studies, or Facilities Studies, respectively, related to the originally proposed Poinsett facility planned to be located in Osceola County, Florida, and Buyer is required to incur any additional transmission service study costs from the Transmission Provider for Feasibility Studies, System Impact Studies, or Facilities Studies, respectively for the Project location change to the Site in Columbia County, Florida (which occurred pursuant to that certain First Amendment to this Agreement) or for any subsequent Project location change pursuant to Section 4.1(b), then Seller shall reimburse Buyer for any such reasonable redundant transmission service study costs which it incurs from the Transmission Provider for Feasibility Studies, System Impact Studies, or Facilities Studies, respectively, that arise solely due to Seller's Project location change and solely in relation to Buyer's transmission service as part of the Project, and for which Buyer already incurred costs, within thirty (30) days of receipt of Notice from Buyer of its incurring such redundant costs."

(e) Exhibit C is hereby revised and replaced with the Exhibit C that is attached to this First Amendment.

(f) Exhibit I is hereby revised and replaced with the Exhibit I that is attached to this First Amendment.

(g) Exhibit K is hereby revised and replaced with the Exhibit K that is attached to this First Amendment.

Section 3. This First Amendment was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and shall not be construed against either Party as a result of the manner in which this First Amendment was prepared, negotiated or executed.

Section 4. Each of the Parties has all requisite power and authority to execute and deliver this First Amendment. The execution and delivery by each of the Parties of this First Amendment have been duly and validly authorized by all necessary governmental, corporate, or limited liability

company or other action required by such Party, and no other acts, approvals or governmental, corporate, limited liability company or other proceedings on its part or on the part of the holders of such Party's members, equity or ownership interests or debt securities or any other Person are necessary to authorize the same. This First Amendment constitutes the valid and legally binding obligations of each Party, enforceable against such Party in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application relating to or affecting the enforcement of creditors' rights and by general equitable principles.

Section 5. This First Amendment will be governed by and construed in accordance with the laws of the State of Florida without giving effect to principles of conflicts of laws that would require or permit the application of the laws of any other jurisdiction.

Section 6. No modification or amendment of any provision of this First Amendment will be effective unless made in writing referring specifically to this First Amendment and duly signed by or on behalf of each of the Parties.

Section 7. Whenever possible, each provision of this First Amendment will be interpreted in such manner as to be valid, binding and enforceable under Law, but if any provision of this First Amendment is held to be invalid, void (or voidable) or unenforceable under Law, such provision will be ineffective only to the extent held to be invalid, void (or voidable) or unenforceable, without affecting the remainder of such provision or the remaining provisions of this First Amendment. To the extent permitted by Law, the Parties waive any provision of Law that renders any provision hereof prohibited or unenforceable in any respect.

Section 8. The Agreement, as amended by Section 2 above, is hereby ratified and confirmed in all respects and remains in full force and effect.

Section 9. The terms of this First Amendment will be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

Section 10. This First Amendment forms a part of the Agreement for all purposes and, for the avoidance of doubt, will be construed in accordance with the terms thereof. Except as provided to the contrary herein, all capitalized terms used in this First Amendment have the same meaning assigned in the Agreement.

Section 11. This First Amendment may be executed in separate counterparts by the Parties, including facsimile counterparts, each of which when executed and delivered will be an original, but all of which will constitute one and the same instrument. Delivery of an executed signature page of this First Amendment by facsimile transmission will be effective as delivery of a manually executed counterpart hereof.

Section 12. Except as set forth in this First Amendment, the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this First Amendment to be executed by their duly authorized representatives as of the Amendment Date.

POINSETT SOLAR, LLC

FLORIDA MUNICIPAL POWER AGENCY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

EXHIBIT C

DESCRIPTION OF DELIVERY POINT AND ONE-LINE DIAGRAM

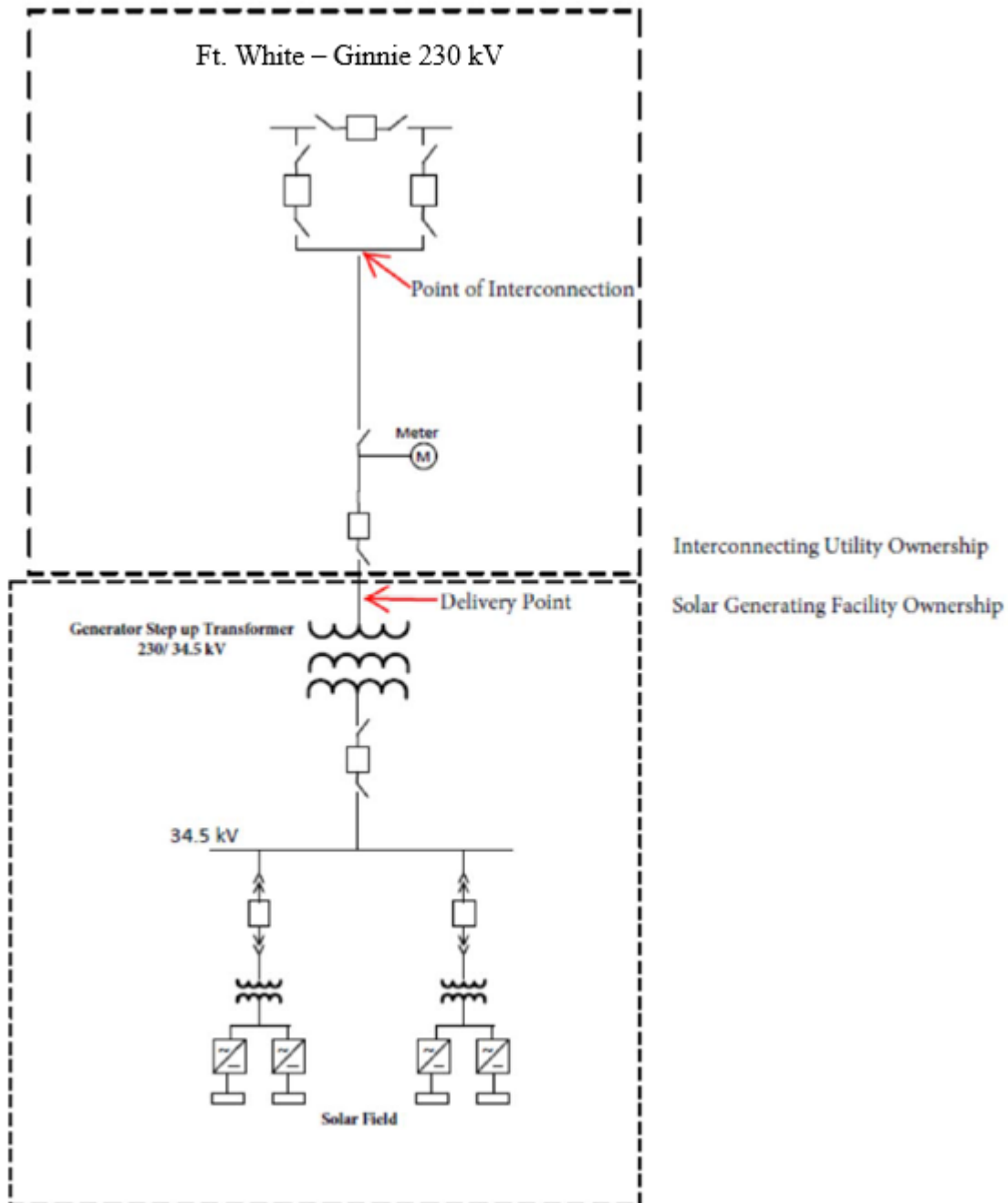


EXHIBIT I

SITE DESCRIPTION; MAP

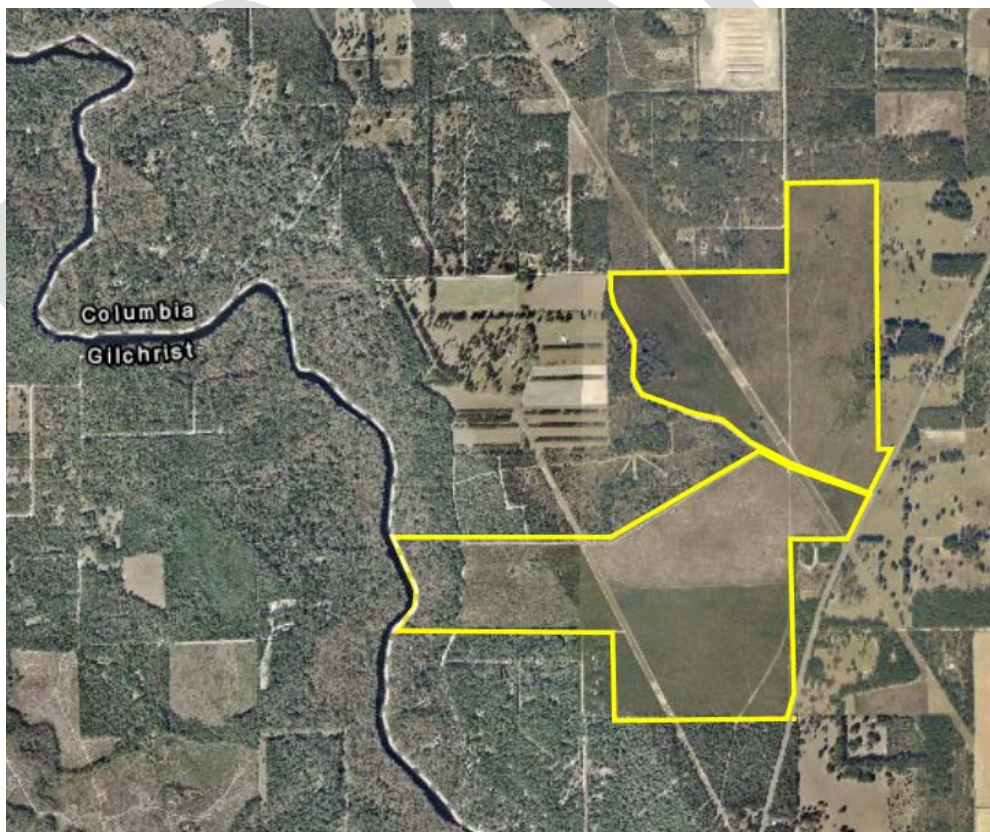


EXHIBIT K

MILESTONES WITH DELAY DAMAGES

Date	Milestone	Section
May 15, 2020	Florida Department of Environmental Protection - Environmental Resource Permit Received	4.1(a)(x)
April 1, 2020	Start of Construction	4.1(a)(x)
June 30, 2020 as such date may be extended in accordance with <u>Section 4.3(c)</u> or otherwise pursuant to the Agreement.	Guaranteed Commercial Operation Date	4.3, 4.4, 6.1(a)(vi)

AGENDA ITEM 5 – INFORMATION ITEMS

a) None

ARP Solar Participants Advisory Committee

August 7, 2019

AGENDA ITEM 6— MEMBER COMMENTS

ARP Solar Participants Advisory Committee

August 7, 2019

AGENDA ITEM 7– ADJOURNMENT

ARP Solar Participants Advisory Committee

August 7, 2019