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June 12, 2015

STATEMENT OF NEW COVERT GENERATING COMPANY, LLC IN OPPOSITION TO HB 4570, HB 4571, HB 4572 and HB 4573

Members of the committee,

Our client, New Covert Generating Company, LLC, is involved in property tax litigation now pending before the Michigan Court of Appeals. Consequently, my firm is submitting this statement in opposition to HB 4570, HB 4571, HB 4572 and HB 4573 on their behalf.

The pending lawsuit involves property tax assessments of a power plant owned by New Covert Generating Company, LLC in Covert Township of Van Buren County for the years 2010 and 2011. The Michigan Tax Tribunal, which has jurisdiction to decide these issues, heard testimony from both New Covert Generating Company, LLC and Covert Township on the questions of the value of the power plant and the meaning of the word "turbine" as presently used in the acts these bills would amend.

Following testimony and submission of evidence by both sides, the President of the Michigan Tax Tribunal ruled largely in favor of New Covert Generating Company, LLC. Covert Township then exercised its right to have the ruling reviewed by the Court of Appeals; however, the Court has not yet made a decision on this case. Similar disputes for years 2012 through 2014 are being held in abeyance by the Michigan Tax Tribunal, awaiting a decision by the Court of Appeals.

Given the pending action by the Court, we respectfully request the Legislature refrain from taking action on HB 4570, HB 4571, HB 4572 and HB 4573, allowing the issues to appropriately be resolved through the court process.

Thank you.

Respectfully submitted,

Rodger Kershner,
Howard & Howard Attorneys PLLC
Counsel for New Covert Generating Company, LLC