**Legal Concerns**

“Maintaining the delineation between the University and PEI, specifically, the University is the world-class institution that conducts research and PEI is the ancillary subsidiary corporation that provides cost-effective energy services to the University. My fear is that this idea blurs the line a bit too much, in that the University does research, not PEI. PEI is a for-profit, S corp., that is exempted from numerous laws/rules (including procurement) that the University is subject to because PEI is intended to provide cost-effective energy services to the University, and in order to provide those cost-effective services, it needs to be a market player, which is why it needs to be a for-profit S corp., that is exempted from numerous laws/rules that apply to state entities. So if/when PEI stops providing services that are primarily cost-effective and gets into the research realm, then I get the sense that it essentially starts acting as the University and the walls between the entities start crumbling, and then the question becomes, why does this separate, for-profit entity that’s exempt from laws/rules exist?”

**UIUC Response**

**PEI is not responsible for any research** - In the proposed power purchase agreement related to the Agri-voltaics research project the University will conduct all of the research and PEI will not have any research responsibilities. PEI would only contract for the purchase of the energy generated by the new solar array and a potential buyout of the system which would be no different than the Solar Farm 2.0 agreement. The research purpose of the property and any attachments (solar array) including access to the property for research could be terms in the Land Lease between the University and the developer which would help make it clear that PEI is not engaging in research activities.

**PPA will be cost-effective** - The project received a proposal for $526,292 to build the array which did not include the investment tax credit (ITC). Currently, it is not clear whether the University qualifies for the investment tax credit so the only way to take advantage of this credit is through a PPA. Also, the USDA has provided a $325,000 grant to support the project. When considering the ITC (50% split) and the grant funding the PPA cost could result in savings of $30,000 compared to the market over the first 10 years. This savings would allow this PPA to explicitly fit within PEI’s scope of authority. Purchasing as a capital project could add over $237,000 in additional costs to the University which could be avoided. See calculations below:

