

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PUBLIC SERVICE COMMISSION

ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING

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THIS APPEARANCE TO BE ENTERED IN ASSOCIATION WITH THE ADMINISTRATIVE HEARING:

Case / Company Name: _____ Docket No. U-_____

Please enter my appearance in the above-entitled matter on behalf of:

1. (Name)
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4. (Name)
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Signature: Valerie J M Brader _____

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion, to implement the provisions of 2013 PA 95, as amended.

Case No. U-17377

**THE CITY OF ANN ARBOR’S
NOTICE REGARDING OPT-OUT OF FUNDING FACTOR PARTICIPATION BY
THE CITY’S SUSTAINABLE ENERGY UTILITY
AND REQUEST FOR CLARIFICATION REGARDING
REPORTING REQUIREMENTS**

On February 11, 2025, the Michigan Public Service Commission (“Commission” or “MPSC”) issued an order in this docket asking electric utilities, including municipal electric utilities, with fewer than 45,000 residential electric customers to file a notice by April 1, 2025 if they intended to opt out of the low-income energy assistance funding factor (“funding factor”) for the 2025-2026 heating season. *See* MCL 460.9t(9) and (15). As discussed further in this notice and request, the City of Ann Arbor (“City”) expects that the City’s new, supplemental Sustainable Energy Utility (“A2SEU”) will soon be formally created and anticipates that it may serve some customers in the 2025-2026 heating season, but certainly less than 45,000 residential customers in that time frame. Because all potential A2SEU customers are also served by DTE Electric Company (“DTE”), the City gives notice that it is choosing to opt-out of the funding factor in order to prevent a situation in which A2SEU customers pay duplicative surcharges. The City also requests clarification from the Commission regarding how it should make the required disclosures regarding this opt-out notice given that it has no customers at the time of this filing, will serve an unknown number of customers in the 2025-2026 heating season, and, regardless of

its customer numbers, the choice by the A2SEU to opt-out is unlikely to alter the number of customers paying the funding factor for low-income energy assistance.

I. Factual Background

Under Article 7, sections 24 and 25 of Michigan’s Constitution, a City has the right to establish, own, operate and acquire municipal utilities. On November 5, 2024, nearly 80% of the voters of the City of Ann Arbor voted to amend the City’s charter to authorize the creation of the A2SEU. The ballot language reads as follows:

The City of Ann Arbor proposes to create within its boundaries an opt-in, publicly-owned Sustainable Energy Utility ("SEU") to (i) supply, generate, transmit, distribute, and store electricity, heat, cooling, light, and power (all from renewable sources); and (ii) provide energy-related services. The SEU could, for example, provide individual or networked rooftop solar panels, heat pumps, geothermal systems, or batteries to customers to supplement existing utility services. The SEU will be fee-based. This proposal does not authorize new taxes. Shall the Charter be amended to authorize the City to establish, construct, own, and operate an opt-in Sustainable Energy Utility?

In accordance with the will of the voters, the City’s Charter was amended to add Section 15.10, which reads:

The City of Ann Arbor shall establish, construct, own and operate within its boundaries an opt-in, publicly-owned Sustainable Energy Utility ("SEU") to (i) supply, generate, transmit, distribute, and store electricity, heat, cooling, light, and power (all from renewable sources); and (ii) provide energy-related services. The SEU will be fee-based.

The A2SEU will be officially created upon the City Council’s adoption of an ordinance outlining the governance and administrative elements of the A2SEU. A proposed ordinance was presented for first reading to the City Council on March 17, 2025 and was unanimously

advanced to second reading without amendment.¹ The City expects the proposed ordinance to be on the agenda for a second reading and vote at the City Council meeting on April 7, 2025. If the proposed ordinance is adopted, the A2SEU would be established as of the date the ordinance takes effect, which is 10 days from the date of its publication.

At this time, because it is in the process of being created, the A2SEU has no customers. It has more than 800 potential customers on a non-binding waitlist. These customers include both residential and non-residential entities, and the A2SEU expects to have both residential and non-residential customers. It is entirely possible, but not certain, that the A2SEU will commence service that provides electrical power to some customers during the 2025-2026 heating season. However, even if the A2SEU commences service before or during the 2025-2026 heating season, it is very unlikely it will serve more than 45,000 residential customers in that time frame.

The A2SEU's initial electrical offerings will include City-owned solar photovoltaic systems and home battery storage located behind the customer's existing electric (DTE) meter. The customer will pay the A2SEU for electric power produced by the solar photovoltaic systems. The customer will have an interconnection agreement with DTE and remain a customer of DTE, which will continue to be the primary electrical provider, as it is for many customers within and outside Ann Arbor who have behind the meter solar photovoltaic systems with and without storage, and equipment that is not owned by a utility. *Cf* MCL 460.10a(4)(d). A2SEU

¹ The language of the proposed ordinance is available online at <https://a2gov.legistar.com/View.ashx?M=F&ID=13907492&GUID=4EC27422-0014-45CB-80E1-EC96F12C23B5> (accessed Mar. 17, 2025). The second paragraph of the proposed ordinance reads "Pursuant to Section 15.10 of the City Charter, this Chapter establishes the City of Ann Arbor's Sustainable Energy Utility ("A2SEU") for the purpose of providing an opt-in, fee-based, supplemental, municipally-owned energy utility that provides 100% renewably-sourced electricity, heat, cooling, light, and power, as well as other energy-related services, at participating homes, businesses, and other properties in the City."

customers will likely have two electrical meters – one for the A2SEU and one for DTE. Pursuant to MCL 460.9t(9), DTE is required to collect the funding factor, and thus all the potential customers of the A2SEU already pay the funding factor surcharge on their DTE electric bill.

II. Reporting Requirements for Opt-Out Utilities

In its order of February 11, 2025, the Commission noted that utilities that choose to opt out of the funding factor must include several pieces of information in their notice. Each item is discussed below.

- 1. Total number of retail billing meters the utility serves in the state of Michigan that would be subject to the low-income energy assistance funding factor if the utility were not opting out.** Zero. As explained above, even if the A2SEU had customers currently, because it is a supplemental utility, any customer that may be served by the A2SEU is already served by DTE, and thus there is no potential net increase in the number of meters due to the A2SEU’s decision to opt-out.
- 2. The number of retail billing meters in total and by county and customer class.** Any customers of the A2SEU will be within the City, and thus in Washtenaw County. The A2SEU did not exist in 2024, so there were no customers served by the A2SEU in 2024; thus the average total monthly retail electric billing meters over the previous calendar year is also zero. The City notes that in a future year, using the average monthly number of meters for the A2SEU will involve using a zero base for some months. At this time the number and class of customers that may be served in the 2025-2026 heating season is unknown, but it is almost certain that there will be fewer than 45,000 residential customers.

3. Energy Assistance Program. The City expects the A2SEU will adopt a program for residential customers in accordance with MCL 400.1233, likely involving certain shutoff protections. The City notes that all the A2SEU's customers will pay a funding factor through bills from their primary utility provider (i.e., DTE). The A2SEU is itself expected to lower energy costs for participants, so its existence is likely to be an affordability measure. The ability of low-income customers to lower their bills through the provision of behind-the-meter generation is an option the A2SEU will provide that would often not otherwise be available.

III. Request for Clarification Regarding Reporting Requirements in Future Years

The City requests clarification from the Commission regarding three topics so it may design a compliant opt-out program and make compliant filings in future years in which its customer numbers are known.

A. Second residential meter. As noted in the Commission's February 11 order in this docket and stated in MCL 460.9t(15)(b), the funding factor "shall not be charged on more than 1 residential meter per residential site." Ann Arbor believes that because its customers are all also customers of DTE, and thus are already charged the funding factor on their DTE bills, the A2SEU's decision to opt-out means the number of residential meters to which the funding factor would be applied but is not being applied as a result of the opt-out is zero. The City seeks clarification from the MPSC regarding whether its interpretation of this requirement is correct.

B. Compliant alternative program. Under MCL 460.9t(10), a compliant program by a utility that opts out is only required to be funded to a level of "what the utility would have collected from the low-income energy assistance funding factor if the utility did not opt out." As discussed above regarding the second residential meter, the A2SEU's required program level

would likely be set by including a funding factor of not more than \$2 per meter for non-residential customers, and no funding assumed from any residential customer, as their A2SEU meter is presumably their second electric meter at the property. The City seeks clarification regarding whether its interpretation of this requirement is correct in light of the supplemental nature of the A2SEU.

C. Reporting. Because the A2SEU and DTE will share customers, the City intends to report **only** on the number of customers that applied for and received assistance under any A2SEU program adopted to comply with MCL 490.9t. It assumes that DTE’s reporting will otherwise allow clarity regarding the total number of A2SEU customers who received support for assistance with their DTE bill. Reporting only those customers who sought or received assistance with an A2SEU bill will avoid double-counting customers of the A2SEU who applied for and received only support for paying their DTE bill when reporting the information required by 490.9t(10)(c) (“The total number of the utility’s customers, by county, that received assistance.”). Similarly, the City proposes that the A2SEU only report any assistance received *by the A2SEU* for any bill for a “home heating commodity” (if such a bill exists), to avoid double reporting of a joint A2SEU/DTE customer who receives assistance with a DTE Gas bill. See 490.9t(10)(d). The City notes that it does not believe heating services via a geothermal system would qualify as a bill involving a “home heating commodity.” The City seeks clarification regarding its interpretation of this requirement in light of the supplemental nature of the A2SEU and the geothermal heating services it hopes to offer in the future (though not in the 2025-2026 heating season).

Based on the foregoing, the City of Ann Arbor respectfully requests:

- (1) The Commission accept this filing as notice that the A2SEU is opting out of the funding factor for the 2025-2026 heating season;
- (2) The Commission find that the A2SEU is in compliance with the requirements of Section 9t of Public Act 95 of 2013, as amended by Public Acts 168 and 169 of 2024;
- (3) The Commission clarify whether the City's interpretation is correct regarding its conclusion that the number of residential meters affected by the A2SEU opting out of the funding factor is zero;
- (4) The Commission clarify whether the City's interpretation is correct regarding the necessary funding level of an A2SEU low-income assistance program; and
- (5) The Commission clarify whether the City's interpretation is correct regarding reporting on the number of A2SEU customers who receive low-income assistance and its interpretation of home heating commodity to geothermal heating service.

Dated: April 1, 2025

RIVENOAK LAW GROUP P.C.

By:



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Case No. U-17377

PROOF OF SERVICE

On the date below, an electronic copy of **The City of Ann Arbor's Notice Regarding Opt-Out of Funding Factor Participation by the City's Sustainable Energy Utility and Request for Clarification Regarding Reporting Requirements** was served on the following:

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Realgy Corp.
Realgy Energy Services
Santana Energy
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Spartan Renewable Energy, Inc.
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Stephenson Utilities Department
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Upper Michigan Energy Resources Corporation
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The statements above are true to the best of my knowledge, information and belief.

Dated: April 1, 2025

RIVENOAK LAW GROUP P.C.

By:

A handwritten signature in cursive script that reads "Valerie J.M. Brader".

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