

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
REQUEST FOR CLARIFICATION REGARDING
THE CITY'S SUSTAINABLE ENERGY UTILITY
& LOW INCOME PROGRAM COMPLIANCE**

Under MCL 460.9t(9) and (10), municipal electric utilities with fewer than 45,000 residential electric customers are permitted to opt-out of having customers charged a low-income energy assistance funding factor, provided they provide the required notice and reporting to the Commission and establish and fund an energy assistance program. MCL 460.9t(15)(b) defines the low income energy assistance funding factor (the "Funding Factor") to apply to "each retail billing meter payable monthly by every customer receiving a retail distribution service from a [...] municipally owned electric utility" and further provides that the Funding Factor must not be charged on more than 1 residential meter per residential site.

As discussed further in this request, the City of Ann Arbor ("City") has created a new municipal electric utility, the Ann Arbor Sustainable Energy Utility ("A2SEU"), that is expected to begin to serve customers, as a supplement to service from DTE Electric Company ("DTE"), with behind the meter solar (and potentially also with storage) during the 2026-2027 heating season. At this time no distribution service is planned for the 2026-2027 heating season, and no final decision has been made regarding whether the electric service will be metered. Because all potential A2SEU customers are also served by DTE, and thus already pay a surcharge to fund

low income energy assistance programs, the City does not believe that the Funding Factor would apply, even if meters are deployed. To the extent the requirement applies, the City plans to opt out of the Funding Factor to prevent a situation in which A2SEU customers pay duplicative surcharges. In this filing, the City requests clarification from the Commission regarding whether MCL 460.9t applies to a municipal electric utility that is only offering behind the meter and supplemental services in the relevant year, and if it applies, confirmation that the City's proposed methods of compliance with the various requirements, including the required disclosures and reporting and energy assistance program, would be sufficient.

I. Factual Background

Article VII, sections 24 and 25 of Michigan's Constitution, which were added to the Constitution following the adoption of the Foote Act by the Michigan Legislature, grant to cities the right to supply light, heat, and power to inhabitants through ownership and operation of a municipal utility. On November 5, 2024, nearly 80% of the voters of the City of Ann Arbor (far more than the Constitutionally required 60%) voted to amend the City's charter to authorize the creation of the A2SEU. The ballot language read 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?

Accordingly, 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 City Council then took the necessary steps to effectuate the voters’ will and create the A2SEU, which was established on April 17, 2025 (the effective date of the ordinance approved by City Council that officially created the A2SEU and outlined the governance and administrative framework).

Because it is in its infancy, the A2SEU has no customers as of the date of this filing. It has more than 1,000 potential customers on a non-binding waitlist. These potential customers include both residential and non-residential entities, and the A2SEU expects to have both residential and non-residential customers. It is expected, but not certain, that the A2SEU will soon commence service, which means that it will likely provide electrical power to some customers during the 2026-2027 heating season. However, even if the A2SEU commences service before or during the 2026-2027 heating season, it will not serve more than 45,000 residential customers for some time.

The A2SEU’s initial electrical offerings will include City-owned solar photovoltaic systems and 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 (whether self-owned or owned by a third-party, and with or without paired storage). Cf MCL 460.10a(4)(d). If

electrical service for A2SEU customers is metered, such customers will likely have (at least) 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. Moreover, if the service is metered, the A2SEU meter would be the second electric meter at its customer sites. *See* MCL 460.9t(15)(b) (“The low-income energy assistance Funding Factor must not be charged on more than 1 residential meter per residential site.”). Finally, as other City utilities bill quarterly as opposed to monthly, it is possible but not certain the A2SEU will elect a billing cycle that is not monthly.

For A2SEU electric customers, DTE will continue to be the primary electrical provider, as it is for customers with other self-service solar and storage (whether owned by themselves or a commercial self-service provider). *C.f.* MCL 460.10a(4)(d). The A2SEU will only supply electric power when the A2SEU’s solar voltaic system is producing (or in the case of systems paired with behind the meter storage, discharging) that energy. Thus, 100% of the A2SEU’s customer demand for electric power from the A2SEU will be supported by assets owned by the A2SEU, and when those assets are not generating electric power, the A2SEU will have no responsibility or requirement to provide electric power to the A2SEU customers.

II. Lack of Distribution Service

As noted above, the Funding Factor is only required to be applied if the municipally owned electric utility is providing “retail distribution service.” MCL 460.9t(15)(b). Michigan law does not define this term. MCL 460.10y defines “delivery service” to mean “the providing of electric...distribution to a retail customer.” The U.S. Energy Information Agency defines a “distribution provider (electric)” as the entity that “[p]rovides and operates the wires between the

transmission system and the end-use customer.” See U.S. Energy Information Administration, *Glossary: D*, <https://www.eia.gov/tools/glossary/index.php?id=D> (last visited Nov. 5, 2025).

The A2SEU does not expect to own and/or operate any wires in the 2026-2027 heating season, even if it does own meters. The low-income energy assistance funding factor **must not be charged** on more than 1 residential meter per residential site. MCL 460.9t(15)(b)[emphasis added]. As such, the City should not be required to apply an additional Funding Factor for the A2SEU where the City will not provide a “retail distribution service,” and where a Funding Factor is already being collected for each customer by DTE.

III. Proposed Compliance with Key Requirements If Applicable

Assuming the Commission finds that the A2SEU is not excused from the requirements related to the Funding Factor, the A2SEU requests clarification on how several elements of the required reporting could be fulfilled. The Commission requires that utilities that choose to opt out of the Funding Factor must include several pieces of information in their notice. How the A2SEU would propose to comply with each item if the requirement is found to be applicable to the A2SEU (for instance, if the A2SEU chooses to provide a metered, retail distribution service) 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.** As explained above, because the A2SEU 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 residential meters that would be subject to the Funding Factor if the A2SEU did not opt out. Thus, the A2SEU would propose

constantly reporting a “zero” figure for residential metering, to the extent it has meters to which the charge might be applicable.

- 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 City notes that in years of initial operation, using the average monthly number of meters for the A2SEU will involve using a zero base for some months and will likely understate the number of customers as the A2SEU grows. Despite this under-counting, the A2SEU would propose to report the average, since the number of retail billing meters that would have been subject to the funding factor would be very small (consisting only of non-residential meters served by the A2SEU).
- 3. Energy Assistance 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.” The City notes that the only A2SEU customers that would pay the low-income Funding Factor absent an opt-out would be non-residential customers due to the supplemental nature of the utility. Under the 2024-2025 Funding Factor, each participating meter generates approximately \$15/yr; thus more than 200 non-residential customers would be needed to generate even \$3K in annual funding. Any attempt by A2SEU to use that funding to set up a program would likely result in an extremely high percentage of that funding going to administration rather than assistance to customers. Moreover, since the A2SEU’s customers will pay a Funding Factor through bills from their primary utility provider (i.e., DTE), this additional funding can be contributed to existing third-party programs that already provide assistance to Ann Arborites (e.g.,

Washtenaw County operates such a program), thus increasing the dollars available to assist low-income utility customers.¹ The A2SEU therefore proposes to comply with this provision by making a donation to such a program equivalent to \$15/yr per commercial or industrial meter enrolled in the A2SEU and reporting the same to the Commission.

4. **Monthly Billing.** Currently, the City’s other utilities (e.g. water) send out bills on a quarterly basis. The A2SEU has not yet determined if it will choose to match that billing cadence or to bill monthly. In the event that the City chooses to bill quarterly and installs a meter, and is required to apply a Funding Factor to that meter, it would propose to comply by ensuring its charge is proportional to the amount that would have been charged on monthly billings (e.g. a three-month increment if billed quarterly).

IV. Request for Clarification Regarding Reporting Requirements

If its above proposal regarding the energy assistance dollars is accepted, the A2SEU would not separately report the number of customers that apply for and receive assistance from such a program, as the A2SEU’s funds would be commingled with other funding sources in well-established and larger programs. Such an approach will avoid double-counting customers of the A2SEU who applied for and received only support for paying their DTE bill from an established program when examining all the reports filed in compliance with MCL 490.9t(10)(c) (“The total number of the utility's customers, by county, that received assistance.”).

V. Clarification re Geothermal Characterization

¹ Initial projections show the A2SEU may itself 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 that is paid over the life of the asset based on production is an option the A2SEU will provide that would often not otherwise be available.

In the future, the A2SEU plans to offer geothermal heating and cooling services. At this time, the Commission requires reporting of assistance for any bill for a “home heating commodity.” The City notes that it does not believe heating services via a geothermal system would qualify as a bill involving a “home heating commodity,” and thus it would not plan on making any report regarding such meters or assistance. (Any A2SEU/DTE customer who receives assistance with their DTE Gas bill would be covered in DTE’s reporting.) See 490.9t(10)(d).

VI. Conclusion

Based on the foregoing, the City of Ann Arbor respectfully requests that the Commission clarify whether a) the City is required to apply a Funding Factor given that it does not plan to offer distribution service in the 2026-2027 heating season and a Funding Factor is already being collected by DTE; and b) if the City’s recommended course of action regarding compliance with Section 9t of Public Act 95 of 2013, as amended by Public Acts 168 and 169 of 2024, is appropriate if the A2SEU is found to offer “retail distribution service.” Specifically, the City asks that:


- (1) The Commission clarify whether it agrees the number of residential meters affected by the A2SEU opting out of the Funding Factor is zero, and thus the A2SEU reporting so would be acceptable;
- (2) The Commission confirm that the A2SEU can continue to use the standard multi-year averaging period for calculating the average monthly number of meters, including those time periods in which there were no customers served by the A2SEU;
- (3) The Commission confirm the method, in concept, for calculating the necessary funding level of an A2SEU low-income assistance program based on commercial and industrial

meter numbers is appropriate, and that the City’s proposal to donate the equivalent of the annual per-meter charge to an existing energy assistance program is an acceptable means of compliance;

- (4) The Commission confirm in the event that the City chooses to bill quarterly and installs a meter, and is required to apply a Funding Factor to that meter, the City’s proposal to comply by ensuring its charge is proportional to the amount that would have been charged on monthly billings (e.g. a three-month increment if billed quarterly) is an acceptable means of compliance;
- (5) The Commission adopt the proposed method for reporting on the number of A2SEU customers who receive low-income assistance; and
- (6) The Commission confirm that geothermal heating and cooling services do not qualify as a “home heating commodity” for the purposes of MEAP reporting.

Dated: November 17, 2025

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PROOF OF SERVICE

On the date below, an electronic copy of **The City of Ann Arbor's Request for Clarification Regarding the City's Sustainable Energy Utility & Low Income Program Compliance** was served on the following:

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Superior Energy Company
Texas Retail Energy, LLC
Thumb Electric Cooperative
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Upper Michigan Energy Resources Corporation
Upper Peninsula Power Company
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Village of Clinton
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The statements above are true to the best of my knowledge, information and belief.

Dated: November 17, 2025

RIVENOAK LAW GROUP P.C.

By:

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

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