



## Legislation Text

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**File #:** 19-1366, **Version:** 1

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### Resolution to Approve Professional Services Agreement with Varnum LLP, for Legal Services Relative to MPSC Case No. U-20471 (\$45,000.00)

The City purchases power from DTE Electric Company (DTE) and also supplies power to DTE from two hydroelectric power generation facilities, the Barton Dam and the Superior Dam (the "Hydro Facilities"). The Hydro Facilities provide clean and renewable energy and capacity to DTE. Ann Arbor has recently set a goal of powering 100% of municipal government operations by means of renewable power by 2035 and a goal of reducing community-wide greenhouse gas emissions 90% by 2050. Local renewable energy generation as well as the greening of the DTE electric grid will both be essential in meeting the City's goals and doing all that is possible to mitigate global climate change.

On March 29, 2019, DTE filed an Application, Testimony, and Exhibits with the Michigan Public Services Commission ("MPSC") seeking approval of its Integrated Resource Plan ("IRP") pursuant to MCL 460.6t, and for other relief (the "Application") in what is called Case No. U-20471. In its Application, DTE describes being "in the midst of a fundamental transformation of its resource portfolio." This transformation includes retirement of coal plants, and the addition of a variety of new resources, which apparently have yet to be precisely determined, but includes additional renewable resources for DTE's Voluntary Green Pricing ("VGP") program.

In April, the City petitioned to intervene in Case No. U-20471 to contend that DTE's plans for its IRP generally, and its VGP program and renewable energy projections specifically, should adequately account for the known demand of its existing customers, including Ann Arbor, for renewable energy; and that DTE's plan as filed needs to reflect a much more significant investment in renewable energy in order to increase supply and eventually lower price, reducing barriers to accessing green power so that the City, and others, can meet its public policy objectives in a cost effective and timely manner. Moreover, the City contends that programs proposed in the IRP perpetuate issues surrounding environmental and energy injustice, making it nearly impossible for most municipalities and nearly all residents to access clean and renewable sources of energy. The City also is participating in this case to the extent necessary to protect its interests as both a supplier to, and purchaser from, DTE of renewable energy.

Because of the extremely short time allowed by the MPSC for intervention, the City retained Varnum LLP on a limited basis to secure the City's intervention. Varnum, LLP was selected because of that firm's expertise in these matters. Varnum LLP is representing the City in administrative proceedings both before the MPSC and before other administrative agencies.

The City's intervention as successful, and the City now needs to enter into a professional services agreement with Varnum LLP to secure its work on the balance of the case. The cost of the services should not exceed \$45,000.00, including \$490.00 for the initial post-intervention work that was done in June.

Budget/Fiscal Impact: Funding for this agreement is available in the approved Sustainability and Innovations budget.

Varnum LLP, complies with the City of Ann Arbor's Non-Discrimination and Living Wage Ordinances. Approval of this professional services agreement with Varnum LLP in the amount of up to \$45,000.00 for legal services relative to MPSC Case No. U-20471 is recommended.

Prepared by: Stephen K. Postema, City Attorney

Reviewed by: Missy Stults, Sustainability and Innovations Manager

Approved by: Howard S. Lazarus, City Administrator

Whereas, To best protect its interests in MPSC Case No. U-20471, the City intervened;

Whereas, To protect its interests throughout its intervention, the City needs to enter into a professional services agreement with Varnum LLP so the firm may represent and advise the City in the proceeding;

Whereas, Varnum LLP has expertise in this matter and its services in MPSC Case No. U-20471 should cost no more than \$45,000.00;

Whereas, Funding for this agreement is available in the approved Sustainability and Innovations budget; and

Whereas, Varnum LLP, complies with the City of Ann Arbor's Non-Discrimination and Living Wage Ordinances;

RESOLVED, That an agreement for legal services with Varnum LLP be approved in the amount of up to \$45,000.00;

RESOLVED, That the funding for this contract be made available without regard to fiscal year;

RESOLVED, That the Mayor and City Clerk be authorized to execute the professional services agreement with Varnum LLP, subject to approval as to form and substance by the City Attorney; and

RESOLVED, That the City Attorney and City Administrator be authorized to take the necessary administrative actions to implement this resolution.