



Legislation Text

File #: 21-0736, **Version:** 1

Resolution to Approve the Settlement Agreement in Michigan Public Service Commission Case Nos. U-20713 and U-20851 Regarding DTE's Voluntary Green Pricing Program and Approve the Memorandum of Understanding with DTE to Work Together to Explore Potential Landfill Solar Project In 2020, the City of Ann Arbor intervened in Michigan Public Service Commission Cases U-20713 and U-20851 relating to DTE's Voluntary Green Pricing (VGP) program and its renewable energy build plans for the upcoming five years because the City found the pricing in the VGP program to be too high, DTE's projections of future renewable energy builds to be too low, and the offerings through the VGP program to be too limited and missing strategic programmatic opportunities that customers are interested in procuring.

Through the work of the various intervenors, including the City, the proposed settlement agreement addresses all of the City's priorities, as previously discussed with Council, including:

Objective A: Lower prices for participation in MI Green Power programs

- Related Issue: Small users (residents) now pay much more than large users (City, businesses) for VGP offerings.
- Proposed Settlement:
 - Eliminates differential treatment of residential customers vs. larger users in the VGP program by eliminating the prior divisions between projects (i.e. eliminates the 17/19 split).
 - Allows all categories of customers to access the same lower-cost projects.

Objective B: Ensure supply of renewables can meet demand

- Related Issue: Federal tax credits mean projects built sooner are cheaper.
- Proposed Settlement
 - Despite push from others, there is no reduction to the proposed build plan.
 - Commitment to explore strategies that will maximize tax credits even for projects built in later years, to keep prices down.
 - Regular review of forecasts to adjust to changes in demand.
 - Commitment to increase build plan to accommodate approx. 400 MW for Ann Arbor if we sign such an agreement.

Objective C: New program offerings that offer near-term carbon reductions

- Related Issue: Current program offerings add renewables, but don't reduce energy demand or eliminate fossil-fueled units, meaning they might not reduce carbon emissions.
- Proposed Settlement:
 - DTE commits to meet and discuss suggested products with us with a goal of proposing new offerings in the next VGP filing (2022).
 - Since the law doesn't require such an offering, and only DTE can legally implement

some of the suggested programs, **can only be achieved through settlement.**

- One potential product, Voluntary Power Reduction Agreements, would allow our investments to not only cost-effectively reduce near-term carbon emissions by lowering demand, but do so in a way that addresses environmental justice, equity & inclusion.

Objective D: Want a community solar offering

- Related Issue: Our solar project at the landfill could be a Community Solar offering (with optional low-income component).
- Proposed Settlement:
 - The settlement requires DTE to create a pilot program that allows “anchor tenants” to sponsor community solar projects, and subscribers (any DTE customer - residential or business) get the same deal as the anchor tenant does per kWh.
 - Since the law doesn’t require such an offering, and community solar constructs are legally difficult to achieve without DTE partnership, **can best be achieved through settlement.**
 - Settlement includes the Ann Arbor landfill being such a program, which would allow Pittsfield Township (and others) to participate in a very simple way. Ann Arbor can decide how much of the project to open to others or reserve.
 - Optional low-income component is included.
 - Joint commitment to making a decision in time to begin construction by the end of this year to maximize tax credits on landfill solar project.

The City needs to approve or reject the proposed Settlement Agreement no later than April 20, 2021.

The Settlement Agreement, in Section 9.1.3.2, also provides that DTE and the City will commit to work together on the landfill solar project according to the terms of a Memorandum of Understanding (MOU) which will allow the City to work with DTE to assess the costs of and negotiate a binding agreement regarding a potential landfill solar project.

The proposed Settlement Agreement addresses all of the City’s priorities and includes matters the City could not obtain through continued litigation, and staff recommends that City Council approve the Settlement Agreement in MPSC Case Nos. U-20713 and U-20851 Regarding DTE’s Voluntary Green Pricing Program and Approve the Memorandum of Understanding with DTE to work together on a potential Landfill Solar Project.

Budget/Fiscal Impact: There is no budget impact associated with this resolution, but this settlement will save the City approximately \$12,000 in legal fees estimated for this intervention which can now be applied to advancing other sustainability-related legal opportunities.

Prepared by: Missy Stults, Sustainability and Innovations Manager

Reviewed by: Stephen Postema, City Attorney

Approved by: Tom Crawford, City Administrator

Whereas, The City of Ann Arbor intervened in Michigan Public Service Commission Case Nos. U-20713 and U-20851 Regarding DTE’s Voluntary Green Pricing Program;

Whereas, Through intervention, the City and other intervenors have been able to make notable progress on various priorities, and DTE is willing to approve a Settlement Agreement which addresses all of the City’s priorities;

Whereas, The Settlement Agreement also contemplates the approval of a Memorandum of Understanding between the City and DTE to facilitate their work together on a potential landfill solar project;

Whereas, Approval of the Settlement Agreement and Memorandum of Understanding would assist the City in advancing its A²ZERO goals around a just transition to community-wide carbon neutrality;

RESOLVED, That City Council approve the Settlement Agreement in U-20713 and U-20851;

RESOLVED, That the Mayor, Clerk, City Administrator, City Attorney, and the City's outside legal counsel, Valerie Brader, Esq. of Rivenoak Law Group, P.C., be authorized to execute such settlement documents and take such other actions as are consistent with the purposes of this resolution.

RESOLVED, That City Council approve the Memorandum of Understanding between the City and DTE Electric committing each to work together to explore a potential landfill solar project;

RESOLVED, That the Mayor, Clerk, City Administrator, City Attorney, and the City's outside legal counsel, Valerie Brader, Esq. of Rivenoak Law Group, P.C., be authorized and directed to execute said Memorandum of Understanding after approval as to form by the City Attorney and approval as to substance by the City Administrator; and

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

Sponsored by: Mayor Taylor