

August 31, 2026

VIA EMAIL AND U.S. MAIL

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Re: Proposed Referendum and Ballot Question Regarding the City's Proposed Takeover of Superior Water, Light and Power Company Water System Assets

Dear City Attorney Prell and Attorney Landretti:

Superior Water, Light and Power Company ("SWL&P") writes to express its concern regarding the proposed referendum and ballot question put forward at the Superior Common Council meeting on August 18, 2026, which is scheduled for a Council vote at the next meeting.

SWL&P has been a committed community partner, providing safe, reliable, and affordable utility service to the residents of Superior for more than 100 years, all while engaging in sensible collaboration with the City. SWL&P encourages the City to abandon this misguided takeover effort.

Nonetheless, if, as stated by various Councilors at the last Common Council meeting, the Council believes the acquisition of SWL&P's water utility assets should be put to the people of Superior, then the Council should at least ensure the people are given a ballot question that clearly asks for their approval of the acquisition via adversarial purchase. A proper and unambiguous ballot question would not only allow the people to speak with their votes but would also avoid unnecessary costs likely to arise from resolving the legal deficiencies in the current ballot question.

After a couple of changes, and a clarification, the ballot question approved for publication and to be voted on at the next Superior Common Council Meeting is:

- Should the City transition to a community-owned water utility in the event that the value of the utility, as determined by the Public Service Commission, falls within the City's financial means?

August 31, 2026

Page 2

SWL&P believes the ballot question is improper as misleading, and, most likely, legally invalid to accomplish what the City is proposing to do: acquire privately owned water utility assets via an adversarial purchase (taking).

As posed, the ballot question does not accurately describe what a “yes” vote authorizes. The use of the word “should” makes the question advisory or conditional. The advisory nature associated with a “should” question creates unnecessary legal uncertainty, making it questionable whether an affirmative “yes” vote satisfies the legal prerequisite to the City’s taking of SWL&P’s water utility assets, or instead is intended as some kind of preliminary or advisory step prior to a future referendum to authorize the acquisition. Even if a majority of electors support the ballot question as written, that result would not likely trigger the Public Service Commission’s valuation of the water utility assets because a majority of electors did not authorize the acquisition or taking of those assets.

The remainder of the ballot question fares no better. As written, it fails to ask electors to authorize the acquisition of SWL&P’s water utility assets actually used and useful for the convenience of the public. *Indeed, it does not ask electors to authorize the City’s acquisition of anything.* At most, asking whether the City should “transition to a community-owned water utility” asks electors whether the City should begin a process. It does not ask for authorization to take a specific action. The ballot question’s failure to clearly request such authorization is misleading, making its legal effect, if passed, questionable at best.

Further, stating that the acquired water utility assets would be “community-owned” suggests a City-owned water utility would be like a co-op or credit union, where customers hold actual ownership stakes. Superior residents would hold no stake in the purchased water utility assets—they would be ratepayers of a city department, just as they are users of city streets or ratepayers of the wastewater utility. Using such imprecise and unnecessary language, like “community-owned,” only serves to mislead the electorate about what they are being asked to vote on.

Moreover, stating that the “transition” would begin “in the event that the value of the utility . . . falls within the City’s financial means” adds to the advisory nature of the ballot question. This vague and conditional language cannot serve as a basis for electors to meaningfully approve any acquisition because they do not know who determines whether the value is within the City’s financial means or even what standard is used to make that determination.

At best, the current ballot question asks the people of Superior to advise whether the City should begin a process, i.e., a “transition,” regarding who handles the water utility serving the City, depending on whether the yet-to-be-determined cost falls within the City’s “financial means.” There is no need for such a vague and ambiguous question. The nebulous nature of the question will only create confusion among the electorate and undermine the referendum’s purpose—authorizing an adversarial taking of private water utility assets—by creating a legally questionable basis on which to trigger the Public Service Commission’s valuation of those assets.



August 31, 2026
Page 3

SWL&P hopes that this letter provides useful information as the City and Common Council consider the referendum and ballot language.

Very truly yours,

MICHAEL BEST & FRIEDRICH LLP

A handwritten signature in black ink, appearing to read 'Taylor T. Fritsch', written over a light gray rectangular background.

Taylor T. Fritsch

cc: Rob Sandstrom, SWL&P
Bill Fennessey, Superior Community Coalition
Albert Bianchi, Jr., Michael Best & Friedrich LLP