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August 5, 2024

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, MI 48917

RE: MPSC Docket No. U-21654

Dear Ms. Felice:

On behalf of Tilden Mining Company, L.C., enclosed herewith for filing in the above-referenced matter please find the *Entry of Appearance in an Administrative Hearing, Petition of Tilden Mining Company, L.C. for Leave to Intervene and Certificate of Service*.

Very truly yours,

Fraser Trebilcock Davis Dunlap & Cavanaugh, P.C.



Jennifer Utter Heston

JUH/dah
Enclosures
cc: All parties of record

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PUBLIC SERVICE COMMISSION

ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING

This form is issued as provided for by 1939 PA 3, as amended, and by 1933 PA 254, as amended. The filing of this form, or an acceptable alternative, is necessary to ensure subsequent service of any hearing notices, Commission orders, and related hearing documents.

General Instructions:

Type or print legibly in ink. For assistance or clarification, please contact the Public Service Commission at 517-284-8090.

*Please Note: The Commission will provide **electronic** service of documents to all parties in this proceeding.*

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

Case / Company Name: MPSC v Alpena Power Company, et al. Docket No. U- 21654

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

1. (Name) Tilden Mining Company
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name Jennifer U. Heston
Address 124 W. Allegan St.
Ste. 1000
City Lansing State MI
Zip 48933 Phone 517-377-0802
Email jheston@fraserlawfirm.com
Date 08/05/2024

Signature: 

<input type="radio"/> I am not an attorney
<input checked="" type="radio"/> I am an attorney whose: Michigan Bar # is P- <u>65202</u> _____ Bar # is: _____ (state)

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion,)
to open a contested case proceeding to develop and)
adopt a framework energy waste reduction program)
and to determine the alternative compliance payments)
for effective administration under MCL 460.1091)
for the following named parties:)

Case No. U-21654

- ALPENA POWER COMPANY, CONSUMERS)
- ENERGY COMPANY, DTE ELECTRIC COMPANY,)
- INDIANA MICHIGAN POWER COMPANY,)
- NORTHERN STATES POWER COMPANY,)
- UPPER PENINSULA POWER COMPANY,)
- UPPER MICHIGAN ENERGY RESOURCES)
- CORPORATION, ALGER DELTA COOPERATIVE)
- ELECTRIC ASSOCIATION, BAYFIELD ELECTRIC)
- COOPERATIVE, CHERRYLAND ELECTRIC)
- COOPERATIVE, CLOVERLAND ELECTRIC)
- COOPERATIVE, GREAT LAKES ENERGY)
- COOPERATIVE, MIDWEST ENERGY)
- COOPERATIVE, ONTONAGON COUNTY RURAL)
- ELECTRIFICATION ASSOCIATION,)
- PRESQUE ISLE ELECTRIC & GAS CO-OP,)
- THUMB ELECTRIC COOPERATIVE,)
- TRI-COUNTY ELECTRIC COOPERATIVE,)
- VILLAGE OF BARAGA, CITY OF BAY CITY,)
- CITY OF CHARLEVOIX, CHELSEA DEPARTMENT)
- OF ELECTRIC AND WATER, VILLAGE OF)
- CLINTON, COLDWATER BOARD OF PUBLIC)
- UTILITIES, CROSWELL MUNICIPAL LIGHT &)
- POWER DEPARTMENT, CITY OF CRYSTAL)
- FALLS, DAGGET ELECTRIC DEPARTMENT,)
- CITY OF DOWAGIAC, CITY OF EATON RAPIDS,)
- CITY OF ESCANABA, CITY OF GLADSTONE,)
- GRAND HAVEN BOARD OF LIGHT AND POWER,)
- CITY OF HARBOR SPRINGS, CITY OF HART)
- HYDRO, HILLSDALE BOARD OF PUBLIC)
- UTILITIES, HOLLAND BOARD OF PUBLIC)
- WORKS, VILLAGE OF L’ANSE, LANSING)
- BOARD OF WATER & LIGHT, LOWELL LIGHT)
- AND POWER, MARQUETTE BOARD OF LIGHT)



AND POWER, MARSHALL ELECTRIC)
DEPARTMENT, NEGAUNEE DEPARTMENT OF)
PUBLIC WORKS, NEWBERRY WATER AND)
LIGHT BOARD, NILES UTILITY DEPARTMENT,)
CITY OF NORWAY, CITY OF PAW PAW, CITY OF)
PETOSKEY, CITY OF PORTLAND, CITY OF)
SEBEWAING, CITY OF SOUTH HAVEN, CITY OF)
ST. LOUIS, CITY OF STEPHENSON, CITY OF)
STURGIS, TRAVERSE CITY LIGHT & POWER,)
UNION CITY ELECTRIC DEPARTMENT, CITY OF)
WAKEFIELD, WYANDOTTE DEPARTMENT OF)
MUNICIPAL SERVICE, ZEELAND BOARD OF)
PUBLIC WORKS, DTE GAS COMPANY,)
MICHIGAN GAS UTILITIES CORPORATION,)
and SEMCO ENERGY, INC.)
 _____)

**PETITION OF
 TILDEN MINING COMPANY L.C.
FOR LEAVE TO INTERVENE**

NOW COMES Tilden Mining Company L.C. (“Tilden” or “Petitioner”), by and through its attorneys, Fraser, Trebilcock, Davis, Dunlap & Cavanaugh, P.C., and hereby petitions this Honorable Commission for leave to intervene in the above-entitled action pursuant to Rule 410 of the Commission’s Rules of Practice and Procedure, R. 792.10410. In support of this petition, Petitioner states as follows:

1. This docket involves the Commission’s compliance with Section 91(2) of Act 229 of 2023, MCL 460.1091(2), which states:

[t]he commission shall initiate a proceeding by July 1, 2024 to adopt a framework energy waste reduction [EWR] program that shall be utilized by the independent energy waste reduction program administrator in administering a program on behalf of a provider, and to determine the appropriate amount of alternative compliance payments for effective administration of energy waste reduction programs consistent with that framework.



2. On June 6, 2024, the Commission issued an order opening this contested case proceeding and proceeding directing its Staff to host a collaborative and work with interested persons to address the framework energy waste reduction ("EWR") program related to the independent administrator and alternative compliance payments. That collaborative was held on June 17, 2024.

3. Further, the Commission directed its Staff to file by 5 p.m. on August 2, 2024, its proposed framework with supporting testimony addressing the EWR program and alternative compliance payment. The Staff filed that proposed framework and testimony.

4. The Commission also directed that interested persons shall submit timely petitions to intervene in this docket no later than August 9, 2024.

5. Petitioner owns and operates an iron ore mine near Ishpeming, Michigan, and is a customer of Upper Michigan Energy Resources Corporation ("UMERC"). UMERC elects to use the statewide EWR administrator for its EWR programs and makes the alternative compliance payment.

6. Petitioner is a very large retail electric customer. Electric supply is a major cost component affecting Petitioner's ability to compete and survive in the highly competitive iron mining business.

7. Petitioner receives electric service from UMERC pursuant to a special contract that was approved by the Commission in an order dated October 25, 2017 in MPSC Case No. U-18224. Petitioner's special contract with UMERC includes EWR surcharges. In 2023, Tilden alone paid approximately \$1.3 million in EWR surcharges. Upon information and belief, Petitioner pays the most of any single-site customer in Michigan for EWR surcharges.

8. Petitioner has direct and vital interests in the issues raised in this docket because Petitioner will be subject to the EWR framework and alternative compliance payments approved in this case. UMERC's alternative compliance payment EWR surcharges will substantially affect what Petitioner must pay for electric service rendered in the future.

9. In deciding petitions for leave to intervene, this Commission has repeatedly applied the two-prong test for standing set forth in *Association of Data Processing Service Organizations, Inc. v Camp*, 397 US 150; 90 S. Ct. 827; 250 L.Ed. 184 (1970). As set forth in *Association of Data Processing*, the two-prong test consists of a showing that: (1) the petitioner would likely suffer injury in fact (i.e., its interests are endangered or at issue); and (2) the petitioner's interests that are allegedly endangered are within the zone of interests to be protected or regulated by the statute under consideration. Petitioner meets the standing test because it has a direct interest in the EWR framework and alternative compliance payments to be established by the Commission, and this interest is within the zone of interests to be addressed by the Commission's consideration of the issues raised in this docket.

10. Petitioner seeks to intervene on the grounds that the rates, terms and conditions of service affected by this proceeding may directly and substantially impact it. Petitioner respectfully submits that because it will be substantially affected by UMERC's alternative compliance payment EWR costs, the Commission should permit Petitioner to intervene as a full party of record in these proceedings and be given the opportunity to conduct discovery, to cross-examine witnesses, to present witnesses on its behalf, if necessary, and to generally advocate its positions with respect to all issues presented.

11. Petitioner will take the position that the Staff's proposed EWR framework and alternative compliance payments should be carefully scrutinized and any unreasonable,

unjustified or unsubstantiated proposals should be disallowed. Petitioner reserves the right to raise new and different positions if, and when, this case proceeds to full hearings and following a full review of the utility testimony filed in this case and responses to discovery, as may be relevant and appropriate.

12. The relief that Petitioner seeks in this proceeding is an order approving only those rates, terms and conditions of service that are just, reasonable and lawful. Petitioner reserves the right to seek other relief based on a review of the filings and/or discovery responses in this proceeding.

13. Petitioner's interests, as set forth above, are not adequately represented by the present parties and, therefore, it would be detrimental to the public interest to deny this Petition to Intervene.

14. Because the issues set forth above are of great significance to the Petitioner and to the public, a denial of this Petition would result in a miscarriage of justice.

WHEREFORE, the Petitioner, Tilden Mining Company L.C., hereby respectfully requests that this Honorable Commission grant it Leave to Intervene in the above-entitled proceedings as a full party of record.

Respectfully submitted,

**FRASER TREBILCOCK DAVIS, DUNLAP
& CAVANAUGH, P.C.**
ATTORNEYS FOR TILDEN MINING COMPANY L.C.



Date: August 5, 2024

By: _____

Jennifer U. Heston (P65202)

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Lansing, MI 48933

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own Motion,) Case No. U-21654
to open a contested case proceeding to develop and)
adopt a framework energy waste reduction program)
and to determine the alternative compliance)
payments for effective administration under)
MCL 460.1091 for the following named parties:)
Alpena Power Company, et al.)
_____)

CERTIFICATE OF SERVICE

Deborah A. Hefka hereby certifies that, on the 5th day of August, 2024, she served Tilden Mining Company, L.C.'s Appearance, Petition to Intervene, and this Certificate of Service upon the persons identified on the attached service list by electronic mail and filed electronically with the Michigan Public Service Commission.

/s/Deborah A. Hefka
Deborah A. Hefka

SERVICE LIST FOR U-21654

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