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*Via: Electronic Filing*

November 14, 2024

Ms. Lisa Felice  
Executive Secretary  
MPSC  
P.O. Box 30221  
Lansing, MI 48909

**Re: MPSC Case No. U-21471 (consolidated with U-21472)**

Dear Ms. Felice:

Enclosed for electronic filing please find a Motion for Reconsideration Pursuant to MCR 2.119(F) with Supporting Affidavit of Chad A. Myers (with attached Exhibit A), together with a Certificate of Service, in the above matter.

If you have any questions, please contact our office.

Thank you.

Very truly yours,

**Fraser Trebilcock Davis Dunlap & Cavanaugh, P.C.**

H. Kirby Albright

HKA/cas  
Attachments  
Ccw/attachs: Service List

**STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the application of MICHIGAN ELECTRIC TRANSMISSION COMPANY, LLC for an Act 30 certificate of public convenience and necessity for the construction of a major transmission line between Oneida Substation in Eaton County and Nelson Road Substation in Gratiot County, Michigan AND the Indiana/Michigan state border at Gilead Township in Branch County and the new Helix Substation in Calhoun County, Michigan

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Case No. U-21471  
(Consolidated with U-21472)

Administrative Law Judge  
Christopher S. Saunders

H. Kirby Albright (P32363)  
FRASER TREBILCOCK DAVIS DUNLAP  
& CAVANAUGH, P.C.  
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**MOTION FOR RECONSIDERATION PURSUANT TO MCR 2.119(F)  
WITH SUPPORTING AFFIDAVIT OF CHAD A. MYERS**

**NOW COMES** Chad A. Myers, by and through his counsel, Fraser Trebilcock Davis Dunlap & Cavanaugh, P.C., by H. Kirby Albright, and pursuant to MCR 2.119(F), including MCR 2.119(F)(3), does hereby file this Motion for Reconsideration as to the Ruling Denying Petition to Intervene Out of Time of Chad A. Myers, that was issued on November 8, 2024, saying in support hereof as follows:

1. That on or about October 22, 2024, a Petition was filed on Delayed Leave to Intervene Out of Time on Behalf of Chad A. Myers. That the Petition did establish that the Petitioner Chad A. Myers ("Petitioner Myers") is an affected landowner and, therefore, would have a right to Intervene

pursuant to MCL 460.568(2) <sup>1</sup>, as to transmission siting proceedings.

2. That the Petition filed did focus on “good cause” as justification for Petitioner Myer’s intervention (i.e., “because no other party will protect interests with respect to Petitioner’s Property, given the proximity of the proposed line to Petitioner’s residence, and because there has been proposed both a “preferred route” and an “alternative route” for the line for which comment on both will be helpful to the Commission, and because no delay would occur from participation by the Petitioner.” (See, *paragraph 8 of Petitioner Myer’s Petition*).

3. That as to the stated Rule relating to delayed filings, R 792.10410 Petition, Rule 410 states as follows:

“(1) A person who is not a complainant, respondent, applicant, or staff, and who claims an interest in a proceeding may petition for leave to intervene. Unless otherwise provided in the notice of hearing, a petition for leave to intervene must be filed with the commission not less than 7 days before the date set for the initial hearing or prehearing conference and the petition must be served on all parties to the proceeding. All parties must have an adequate opportunity to file objections to, and to be heard with respect to, the petition for leave to intervene. A petition for leave to intervene that is not filed in a timely manner may be granted upon a showing of good cause and a showing that a grant of the petition will not delay the proceeding or unduly prejudice any party to the proceeding. Except for good cause, an intervenor whose petition is not filed in a timely manner, but who is nevertheless granted leave to intervene, is bound by the record and procedural schedules developed before the granting of leave to intervene.

(2) A petition for leave to intervene must set out clearly and concisely the facts supporting the petitioner’s alleged right or interest, the grounds of the proposed intervention, and the position of the petitioner in the proceeding to fully and completely advise the parties and the commission of the specific issues of fact or law to be raised or controverted. If affirmative relief is sought, the petition for leave to intervene must specify that relief. Requests for relief may be stated in the alternative.”

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<sup>1</sup> It is noted that the Petition incorrectly included a reference to MCL 460.1153.

4. That while Rule 410(1), concerning a delayed filing, mentions the need for "...good cause and a showing that the grant of the petition will not delay the proceedings or unduly prejudice any party to the proceeding"; significantly, the Rule does not identify which specific issues "good cause" must be articulated by way of the written petition, **other than the items identified in Section (2) of Rule 410**. In other words, Rule 410 does not state "good cause" must be articulated for both the appropriate justification for intervention **and** the delayed filing in the written Petition. However, when Section (2) is read in the context of Section (1), it is clear that the contents of the written Petition must include, "...petitioner's alleged right or interest, the grounds of the proposed intervention, and the position of the petitioner in the proceeding to fully and completely advise the parties and the commission of the specific issues of fact or law to be raised or controverted."

5. That the required topics mentioned in Section (2) of Rule 410 are, and were, included in the written Petition filed herein; the Petition filed by Petitioner did set forth "good cause" as to the justification and basis for the Intervention, and did expressly state that there would be no delay because Petitioner accepted the current schedule, as established.

6. Moreover, a written Petition would be, and could be, supplemented by oral argument in the event a hearing was held on the Petition.

7. Here, no hearing was held, and the Petitioner was not afforded an opportunity to supplement the Petition by way of oral argument and/or address the concerns about the basis for "good cause" on the issue of the delay in filing.

8. That if a hearing were to have been held, counsel for the Petitioner would have been able to confirm when counsel was retained, and the issues the landowner had in locating suitable counsel to represent him. Please see the Supporting Affidavit of Chad A. Myers, which is attached hereto as *Exhibit A*.

9. It is respectfully asserted that palpable error as referenced in MCR 2.119(F), and a different result of the Petition would result from the correction of the error, has occurred as a result of the Ruling Denying Petition to Intervene Out of Time of Chad A. Myers dated November 8, 2024, in that,

- (a) Palpable error is present and a different result would be likely due to correction of the error, because the Petitioner, by and through his counsel, was not afforded the opportunity to supplement the written Petition by way of oral argument, to address the reasons for the delayed filing, and as to any concerns raised by the Judge as to the delay.
- (b) Palpable error is present and a different disposition would result because Rule 410, read as a whole, does not specifically identify that “good cause” for both the compelling and valid basis for the request to intervene, **and also** the reason for the delayed filing, must be set forth only in the written Petition. This is particularly true when the Petition filed herein, does otherwise expressly include all of the items mentioned in Section (2) of Rule 410.
- (c) Palpable error exists and a different disposition would result from correction of the error because other petitioners Petitions for Delayed Leave to Intervene Out of Time were GRANTED without any written allegations in the Petition, as to the reasons for the delayed filing. See the Petition filed on behalf of Robert and Rose Williams, filed September 23, 2024, which was granted, by way of an Order issued October 9, 2024; further, it is also noted that the Sierra Club, a large national non-profit with a general interest in environmental matters, filed a petition three (3) days after the Petitioner’s submission, which was granted, yet the Petitioner, as an individual landowner directly affected by the project, request was denied.

(d) That palpable error also exists and a different disposition of the Petition would result from correction of the error, because Petitioner Myers has not been given the opportunity to supplement the current record, by way of oral argument, so that an appeal could be properly considered and thereafter filed as warranted.

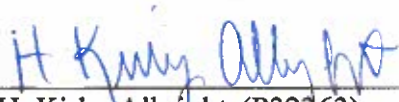
10. That this Motion for Reconsideration is timely in that it has been filed within 21 days of the issuance of the November 8, 2024 Order Denying Petition to Intervene Out of Time of Chad A. Myers.

**WHEREFORE**, Petitioner Chad A. Myers prays that pursuant to MCR 2.119(F), the Administrative Law Judge will set aside the Order of November 8, 2024, and in light of the information in the attached Affidavit, either (a) grant Petitioner's Petition to Intervene Out of Time, or (b) set this matter on for oral argument, so the record could be properly supplemented as to the "good cause" as to the time delay in filing the Petition, and/or (c) that Petitioner be granted such other or further relief as is just and appropriate.

*Respectfully submitted,*

FRASER TREBILCOCK DAVIS DUNLAP &  
CAVANAUGH, P.C.  
Attorneys for Petitioner Chad A. Myers

Dated: November 14, 2024

By:   
H. Kirby Albright (P32363)  
124 W. Allegan St., Ste. 1000  
Lansing, MI 48933  
Telephone: (517) 267-0538

# ***EXHIBIT A***

***Supporting Affidavit of  
Chad A. Myers***

**STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the application of MICHIGAN ELECTRIC TRANSMISSION COMPANY, LLC for an Act 30 certificate of public convenience and necessity for the construction of a major transmission line between Oneida Substation in Eaton County and Nelson Road Substation in Gratiot County, Michigan AND the Indiana/Michigan state border at Gilead Township in Branch County and the new Helix Substation in Calhoun County, Michigan

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Case No. U-21471  
(Consolidated with U-21472)

Administrative Law Judge  
Christopher S. Saunders

H. Kirby Albright (P32363)  
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**AFFIDAVIT OF CHAD A. MYERS**

**NOW COMES** Chad A. Myers, Affiant herein, being duly sworn, and deposes and says:

1. I have petitioned to intervene, though my attorney, in the above matter.
2. While I was generally aware of the project prior to the initial hearing and/or prehearing conference, my knowledge was limited to auditing public hearings and trying to obtain additional details about the project and the implications for my residential property.
3. I am not trained in the law, and this is the first and only transmission line/MPSC matter I have ever been exposed to.
4. As additional details were known to me, I began a diligent search for legal counsel that had a background that could assist me in the administrative hearing portion of this matter,



**STATE OF MICHIGAN  
MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the application of MICHIGAN ELECTRIC TRANSMISSION COMPANY, LLC for an Act 30 certificate of public convenience and necessity for the construction of a major transmission line between Oneida Substation in Eaton County and Nelson Road Substation in Gratiot County, Michigan AND the Indiana/Michigan state border at Gilead Township in Branch County and the new Helix Substation in Calhoun County, Michigan

Case No. U-21471  
(Consolidated with U-21472)


Administrative Law Judge  
Christopher S. Saunders

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**CERTIFICATE OF SERVICE**

**Consolidated Service List for U-21417 (Consolidated with U-21472)**

C A Szczepanski, an employee of Fraser Trebilcock Davis Dunlap & Cavanaugh, P.C., being first duly sworn deposes and says that on November 14, 2024, she caused to be served by electronic mail, a Motion for Reconsideration Pursuant to MCR 2.119(F) with Supporting Affidavit of Chad A. Myers, and this Certificate of Service, upon the parties listed on pages 2 through 4, below.

  
\_\_\_\_\_  
CA Szczepanski

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