



EXCELLENCE IN
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February 5, 2026

Via MPSC E-Dockets

Hon. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 W Saginaw Hwy
Lansing, MI 48917-1120

Re: *In the matter, on the Commission's own motion, to require Comcast Corporation to show cause why it should not be found in violation of 2013 PA 174, the MISS DIG Underground Facility Damage Prevention and Safety Act, MCL 460.721 et seq.*
MPSC Case No. U-22006
Petition of eX² Technology, LLC for Leave to Intervene

Dear Ms. Felice:

Enclosed for filing in the above-captioned proceeding please find the Petition of eX² Technology, LLC for Leave to Intervene, an Entry of Appearance in and Administrative Hearing and a Proof of Service.

Very truly yours,

A handwritten signature in blue ink that reads "Haran C. Rashes".

Haran C. Rashes

Enclosures

cc: Alena Clark, Assistant Attorney General
Adam Cozort, Assistant Attorney General
Sean P. Gallagher, Comcast
Michael Orris, Assistant Attorney General
Hon. James M. Varchetti, ALJ

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion,)
to require Comcast Corporation to show cause)
why it should not be found in violation of 2013)
PA 174, the MISS DIG Underground Facility)
Damage Prevention and Safety Act, MCL)
460.721 et seq. /

Case No. U-22006

PETITION OF
EX² TECHNOLOGY, LLC
FOR LEAVE TO INTERVENE

NOW COMES eX² Technology, LLC (“eX²”), by and through its V.P. and General Counsel, and hereby submits its Petition to Intervene in the above-captioned proceeding pursuant to Rule 410 of the Michigan Public Service Commission’s (“Commission”) Rules of Practice and Procedure, R 792.10410. In support of this Petition, eX² states as follows:

1. eX² Technology, LLC, is a Nebraska limited liability company with principal offices located at 3805 S. 148th Street, Omaha. Nebraska.
2. eX² designs, builds, maintains, and commercializes telecommunications networks throughout the United States, including in the State of Michigan.
3. It is eX²'s position that allowing it to participate in these proceedings will result in additional facts coming before this Honorable Commission which will identify specific violations of Public Act 174 of 2013, the MISS DIG Underground Facility Damage Prevention and Safety Act, MCL 460.721 et seq. (“Act 174”), by the respondent in this proceeding, Comcast Corporation and its affiliated entities conducting business in Michigan (“Comcast”), and the ramification and economic damages of such violations.

4. eX² is under contract with the Holland Board of Public Works (“HBPW”) to design and build a fiber-to-the-home (“FTTH”) network for BPW in the City of Holland, Michigan (“Holland”).

5. eX² is under contract to design and build a middle-mile fiber network for Livingston County in the state of Michigan.

6. Based on information and belief, the respondent in this proceeding, Comcast Corporation and its affiliated entities conducting business in Michigan (“Comcast”) maintain a network of underground and arial coaxial and fiber optic cables throughout both Holland and Livingston County to support various Comcast cable television systems in each location.

7. eX², and several subcontractors which eX² has engaged, are constructing the arial and underground portions of the various fiber optic networks eX² is contracted to build in Michigan.

8. Pursuant to Act 174, when eX² and/or its subcontractors, are ready to perform underground construction and placement of underground fiber-optic cables in Michigan, eX² and/or its subcontractors place a “dig notice” with MISS DIG, containing the specific location where underground fiber placement will take place and the start date of such placement.

9. Such “dig notices” are required to be provided to MISS DIG “at least 72 hours, but not more than 14 calendar days, before the start of any” fiber placement. MCL 460.724

10. eX² and its subcontractors submit all dig notices to MISS DIG in full compliance with Section 5 of Act 174, MCL 460.724.

11. MISS DIG submits “dig tickets” in response to dig notices to "Facility operators" – those who control the operation of underground facility; and, "facility owners" -- those who own underground facilities. MCL 460.727.

12. Based on information and belief, Comcast is one of the facility operators and owners to whom eX²'s "dig tickets" have been submitted.

13. Pursuant to Section 7 of Act 174, "a facility owner or facility operator shall respond to a ticket by the start date and time for the excavation or blasting . . . by marking its facilities in the area of the proposed excavation or blasting in a manner that permits the excavator to employ soft excavation to establish the precise location of the facilities." MCL 460.727(1).

14. While many of the other facility operators and owners in Michigan routinely respond to "dig tickets" by the start date and time requested by eX² and/or its subcontractors, Comcast routinely does not respond in a timely manner.

15. Often when Comcast fails to respond in a timely manner, the location markings made by the other applicable facility owner or facility operators have faded, been covered, and/or destroyed, requiring eX² and/or its subcontractors to submit a replacement "dig notice" which requires other facility operators and owners in the applicable area to respond a second time and re-mark their underground facilities within 24-hours at a real cost to those utilities who timely marked their facilities in the first place. MCL 460.727(4).

16. eX² and its subcontractors routinely have their crews ready to begin installation of fiber on the date they have given MISS DIG in filed dig notices.

17. When Comcast has not marked or located their owned or operated underground facilities by the date given in a "dig notice," eX² and its subcontractors cannot proceed with their work.

18. When eX² and its subcontractors cannot proceed as a result of a missed location deadline, there is a real cost to eX² for labor that has been engaged but cannot perform the work

solely because a dig ticket has not been timely performed by the responsible facility owner or facility operators.

19. When eX² and its subcontractors cannot proceed as a result of a missed location deadline, there is also a reputational cost to eX² caused by delays in performing contracted work, which is often under tight deadlines for completion.

20. Pursuant to the requirements of Section 11(2) of Act 172, MCL 460.731(2), eX² and its subcontractors have reached out to Comcast and Comcast's contracted locator, On the Spot Utility Resources LLC, multiple times regarding the issues raised in this Honorable Commission's January 15, 2026 Order to Show Cause in this proceeding.

21. This Honorable Commission has long held that a party seeking to intervene in a proceeding by right must satisfy a two-pronged test established by the Supreme Court in *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150, 90 S.Ct. 827, 25 L.Ed.2d 184 (1970). First, the party must show that he has suffered an injury-in-fact. Second, it must be able to demonstrate that the interests allegedly damaged are arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question. *See, e.g. Drake v. Detroit Edison Co.*, 453 F.Supp. 1123 (W.D. Mich. 1978).

22. eX² satisfies the "injury in fact" test for intervention in a Commission proceeding because Comcast's apparent unresponsiveness to eX²'s "dig notice" requests from MISS DIG are causing eX² to incur lost time manpower, contractual and reputational costs caused by Comcast's apparent failure to timely locate its facilities.

23. The second prong of the two-pronged test for standing to intervene as a matter of right in a Commission proceeding is a showing that the prospective intervenor's "interests allegedly damaged are arguably within the zone of interests to be protected or regulated by the

statute . . . in question.” Because eX² is constructing underground portions of various fiber optic networks in Michigan, it is an “excavator” as defined by Section 3(n) of Act 174 and clearly within the zone of interests to be protected or regulated by Act 174.

24. Even if it were determined that eX² does not have a standing as a matter of right, it would be entitled to intervene in this proceeding under this Honorable Commission’s discretionary intervention standards.

25. This Honorable Commission has repeatedly held that permissive intervention is appropriate “if the litigant could be expected to bring helpful information to the Commission’s attention that might not otherwise be available.” *In Re: International Transmission Co.*, MPSC Case No. U-16200, Order issued Oct 14, 2010, p 4. *See also, In Re: DTE Elec. Co.*, MPSC Case No. 18091, Order issued Feb. 21, 2019, p 14.

26. Permissive intervention has also been granted where a proceeding ‘raises novel questions and important issues of policy’ and the intervenor will ‘bring a unique perspective’ to the case.” *In Re: DTE Elec. Co.*, MPSC Case No. U-17319, Order issued March 6, 2014, p 10, quoting, *In Re: MascoTech Forming Tech, Inc.*, MPSC Case No. U-11057, Order issued June 5, 1996, pp 2-3.

27. If Intervention is granted, eX²’s experience building fiber optic networks in Michigan, and as an “excavator” subject to Act 174, will result in additional facts and perspective coming before this Honorable Commission in this proceeding including that of an excavator impacted by the violations of Act 174 allegedly committed by Comcast and the ramifications of such alleged violations.

28. eX² reserves the right to raise new and different positions if, and when, this matter proceeds to full hearings and following a full review of Comcast’s testimony filed in this case and

responses to discovery, as may be relevant and appropriate. eX² further reserves the right to take other positions and/or seek other relief based on any proposals that may be submitted by other parties in this case.

29. The relief that eX² seeks in this proceeding is an order finding that Comcast has violated Act 174, requiring Comcast to pay the maximum civil penalty permitted under Act 174, and requiring Comcast to establish a remediation plan to assure future timely compliance with Act 174.

30. eX² is aware that Section 8 Act 174, MCL 460.728 does not permit this Honorable Commission to award damages or equitable relief in this proceeding and such a request for such must be made in a civil complaint in the proper jurisdiction.

31. eX²'s interests, as set forth above, are not adequately represented by any other party and, therefore, it would be detrimental to the public interest to deny this Petition to Intervene.

32. Because the issues set forth above are of great significance to eX² and to the public, a denial of this Petition to Intervene would result in a miscarriage of justice.

WHEREFORE, eX² Technology, LLC hereby respectfully requests that this Honorable Commission grant it Leave to Intervene in the above-titled proceeding as a full party of record.

Respectfully submitted,

eX² Technology, LLC



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Dated: February 5, 2026

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: _____ Docket No. U-_____

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

1. (Name)
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name _____

Address _____

City _____ State _____

Zip _____ Phone _____

Email _____

Date _____

Signature:  _____

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

STATE OF MICHIGAN

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Case No. U-22006

PROOF OF SERVICE

Haran C. Rashes hereby certifies that on February 5, 2026, he served the Petition of eX² Technology, LLC for Leave to Intervene, the appearance of Haran C. Rashes, and this Proof of Service, in the above-captioned proceeding upon the following persons by electronic and first-class mail:

Administrative Law Judge

Hon. James M. Varchetti
Administrative Law Judge
Michigan Public Service Commission
7109 W Saginaw Hwy
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Respectfully submitted,



Haran C. Rashes