

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of UPPER PENINSULA POWER COMPANY for waivers of certain Service Quality and Reliability Standards for Electric Distribution Systems pursuant to R 460.751 and R460.752 and related relief.

MPSC No. U-21586

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**Attorney General Notice of Intervention**

Attorney General Dana Nessel gives notice of her intervention and appearance as a party in this proceeding. In response to Upper Peninsula Power Company's (UPPCo or the Company) application and the notice of hearing issued by the Michigan Public Service Commission (MPSC or the Commission), the Attorney General says:

**I. Statement of Interest**

1. The State of Michigan is a body politic established under the Constitution of the United States of America and admitted into the Union by act of Congress under date of January 26, 1837.

2. She is the duly elected and qualified Attorney General of the State of Michigan and holds such office by virtue of and pursuant to the provisions of Const 1963, art 5, § 21, and by mandate of the qualified electorate of the State of

Michigan, and she is head of the Department of Attorney General created by the Executive Organization Act, 1965 PA 380, ch 3; MCL 16.150 et seq.

3. The Attorney General's intervention and appearance in this proceeding are authorized by both statutory and common law.

4. MCL 14.28 provides in relevant part:

The attorney general . . . may, when in his own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested.

The Attorney General has the right to intervene in any administrative proceeding when the Attorney General, in her own discretion, deems it in the public interest to do so. See *People v O'Hara*, 278 Mich 281; 270 NW2d 298 (1936), and *Gremore v Peoples Community Hospital Authority*, 8 Mich App 56; 153 NW2d 377 (1967).

5. In *Attorney General v Liquor Control Comm'n*, 65 Mich App 88; 237 NW2d 196 (1975), the Michigan Liquor Control Commission issued a complaint against four liquor licensees arising out of criminal convictions in federal court actions. A hearing was conducted before one of the liquor control commissioners, and that commissioner dismissed the complaint. One month later, the Attorney General intervened in the proceedings and filed a petition for rehearing. The Liquor Control Commission issued a written decision and ruled (1) that the Attorney General could not intervene and (2) that it had no authority to consider a petition for rehearing. The Michigan Court of Appeals ruled that, even after the

administrative agency had ruled in favor of the licensee, the Attorney General had the legal authority and duty to intervene and seek review. *Id.* at 91-93.

6. As the chief law officer of the State, the Attorney General has common law authority to represent public interests, as she may deem necessary for the protection of public rights. *In re Certified Question*, 465 Mich 537, 543-545; 638 NW2d 409 (2002), and *Withee v Lane & Libby Fisheries Co*, 120 Me 121, 123; 113 A 22, 23 (1921).

7. The common law powers and duties of the Attorney General include the power to intervene in all actions, which are of concern to the general public. *State ex rel Patterson v Warren*, 254 Miss 293; 180 So 2d 293, 299 (1965).

8. The Attorney General, in her judgment, has determined that the interests of the State and the People of the State of Michigan require her to intervene in this proceeding on their behalf.

## **II. Statement of Positions**

10. The Attorney General takes the position that UPPCo has the burden of proof that its request meets the waiver standard under Michigan Admin Code, R 460.751. See Rule 460.752(1) (“The burden of going forward with a request for a waiver is on the electric utility or cooperative.”).

11. The Attorney General reserves the right to present additional positions and arguments based upon additional information developed via discovery and evidence admitted into the record of this case.

### III. Relief Requested

The Attorney General requests the Michigan Public Service Commission to:

- A. Enter her Notice of Intervention upon the official record of the captioned case and treat her as a party to these proceedings for all purposes, and
- B. Grant the ratepayers of UPPCo such further and additional relief as the facts and circumstances show to be appropriate.

Respectfully submitted,

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Attorney General

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Dated: April 5, 2024

**PROOF OF SERVICE - U-21586**

The undersigned certifies that a copy of the *Attorney General's Notice of Intervention* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 5<sup>th</sup> day of April 2024.

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Aaron J. Walden

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