

STATE OF MICHIGAN  
IN THE COURT OF APPEALS

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*In re*, Implementing Provisions of Public  
Act 233 of 2023

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MPSC Case No. U-21547

ALMER CHARTER TOWNSHIP, et al,

Court of Appeals No. 373259

Appellants,

v

MICHIGAN PUBLIC SERVICE  
COMMISSION,

Appellee.

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**MICHIGAN REGIONAL COUNCIL OF CARPENTERS AND MILLWRIGHTS’  
MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE***

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Dated: February 27, 2025

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<sup>1</sup> No counsel for a party in this lawsuit has authored this brief, in whole or in part, and no party or counsel for a party or any individual other than the amicus curiae, their members, or their counsel, has made a monetary contribution intended to fund the preparation or submission of this brief.

The Michigan Regional Council of Carpenters and Millwrights, by and through its attorneys Novara Tesija & Catenacci, PLLC, and pursuant to MCR 7.212(H), respectfully requests that this Honorable Court enter an Order granting it leave to file the attached *amicus curiae* brief for the reasons that follow:

1. The Michigan Regional Council of Carpenters (hereinafter “MRCC”) is a non-profit, 501(c)(5) tax-exempt entity established for the purpose of representing its membership of over 14,000 individual carpenters and millwrights throughout the entire state of Michigan in the collective bargaining process, as well as by protecting the union interests of its membership.
2. The member carpenters help build diverse projects, large and small, residential and commercial.
3. Union millwrights work with precision machinery, installing and maintaining everything from conveyor systems to turbines and generators.
4. To facilitate the priorities of its members including, but not limited to, improvement of their economic and labor conditions, MRCC engages legislative, legal and political assistance.
5. As more particularly described within the proposed *amicus curiae* brief (attached hereto and made a part hereof by reference), the MRCC is extremely concerned with Appellants’ attempts to overly restrict and interfere with Public Act 233 of 2023 and the Michigan Public Service Commission’s implementation efforts of PA 233.
6. The matters being litigated will significantly impact the livelihoods and well-being of MRCC members, as well as a multitude of other trade unions throughout Michigan.
7. MRCC invests in training programs to support the solar energy industry and open opportunities to individuals who reside in communities hosting solar projects.
8. MRCC believes that facilitating the construction of solar energy facilities will create thousands of good-paying union jobs for Michigan residents.

9. Accordingly, MRCC and its members have a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceedings, and is so situated that the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect that interest.

10. Vacating the Michigan Public Service Commission's October 10, 2024, Order interpreting Public Act 233 of 2023, as Appellants request, would undoubtedly result in harsh consequences which will be absorbed by the MRCC and its members.

11. The MRCC respectfully requests this Honorable Court grant leave to file an *amicus curiae* brief addressing important issues associated with Michigan Public Service Commission interpretations of the Public Act 233, as well as the derivative benefits of the Act as to union workers, individuals hosting solar projects, and Michigan's overall economy.

12. The proposed *amicus curiae* brief is attached hereto and made a part hereof by reference as **Exhibit 1**, and this Motion is timely because it is filed within 21 days after the filing of Appellee's brief. MCR 7.212(H)(1).

WHEREFORE, MRCC respectfully requests that this Honorable Court GRANT its request to participate as *amicus curiae* in this case and accept the proposed brief (attached) for filing.

Respectfully submitted,

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***AMICUS CURIAE BRIEF***  
**OF MICHIGAN REGIONAL COUNCIL OF CARPENTERS AND MILLWRIGHTS**

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## I. STATEMENT OF INTEREST OF AMICUS CURIAE

The Michigan Regional Council of Carpenters and Millwrights hereby submits the following *amicus curiae* brief to this Honorable Court in Case No. 373259, recognized as *Almer Charter Township, et. al v Michigan Public Service Commission*.

The Michigan Regional Council of Carpenters and Millwrights (hereinafter “MRCC”) is a non-profit, 501(c)(5) tax-exempt entity established for the purpose of representing its membership of over 14,000 individual carpenters, millmen, lathers and millwrights in the collective bargaining process, as well as protecting the economic interests of its membership by trying to improve their livelihoods and working conditions. MRCC members help build diverse projects, large and small, residential and commercial, throughout the State of Michigan. In addition to the diverse skills of the MRCC’s carpenters, MRCC millwrights work with precision machinery, installing and maintaining everything from conveyor systems to turbines and generators. The MRCC’s members work through twelve (12) union local units and work for almost five hundred (500) union contractors throughout the entire state of Michigan.

To facilitate the priorities of its members including, but not limited to, improvement of their economic and labor conditions, MRCC engages in legislative, legal, and political assistance. Thus, when the issues addressed in the present case became known to the MRCC, it instantly recognized that these same matters will significantly impact the livelihoods and well-being of its members. The effects of the pending matter will also be felt by a multitude of other trade unions throughout Michigan.

The MRCC invests in training programs to support the industry and open opportunities to individuals who reside in communities hosting solar projects. The MRCC believes that facilitating the construction of solar energy facilities, such as “solar farms” will create thousands of good-paying union jobs for Michigan residents. Moreover, the MRCC has made substantial investments

in the solar industry. For example, the statewide apprenticeship school sponsored by the MRCC (a vast educational and training institution that consists of eight state of the art training centers) has established a training curriculum specifically for the installation and maintenance of solar energy systems. The apprenticeship school has further made a substantial investment in equipment, training, and personnel to support this dedicated curriculum. Furthermore, the MRCC through its affiliate, Local 1123, negotiated with its contractor partners a collective bargaining agreement specifically dedicated to the installation and maintenance of solar power systems. Consequently, the MRCC and its members have a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceedings and is so situated that the disposition of these proceedings may, as a practical matter, impair or impede its ability to protect that interest.

No counsel for a party in this lawsuit has authored this brief, in whole or in part, and no party or counsel for a party or any individual other than the *amicus curiae*, their members, or their counsel, has made a monetary contribution intended to fund the preparation or submission of this brief.

## II. ARGUMENT

Public Act 233 of 2023 (“PA 233”) and the Michigan Public Service Commission’s accurate interpretation of the Act are positives for union workers, individuals hosting solar projects, and Michigan’s overall economy. Specifically, the requirement that a Compatible Renewable Energy Ordinance (“CREO”) shall not impose conditions which are more restrictive than the provisions included in section 226(8) of PA 233 reduces costs and helps speed up planning for new utility-scale solar projects by giving the Michigan Public Service Commission (“MPSC”) the authority to approve siting for projects. This isn’t a new idea; it is based on MPSC’s existing authority to site transmission lines and other large energy infrastructure projects. The authority provided to the

MPSC through PA 233 is necessary to overcome the patchwork of exclusionary zoning laws that make it incredibly difficult to site sizable solar projects that serve a statewide need.

Those overly restrictive zoning laws further infringe on the rights of landowners who wish to participate in solar projects and the green economy. In addition to MRCC's direct, real, and substantial interest in the considerations at issue in the above-captioned matter, PA 233 further serves the interest of the public at large by reducing costs for utility ratepayers through creation of a more efficient planning process. This is all while maintaining that projects to be approved by the MPSC will need to meet standards designed to enhance soil quality and create pollinator-friendly habitats. And, importantly, nothing in PA 233 and the powers conferred upon the MPSC override the ability of local landowners to decide whether they want their land used in solar energy projects or not.

According to Michigan State University's Institute for Public Policy and Social Research, the state of Michigan needs to leverage 47,000 of its 9.7 million acres of farmland to meet Michigan's clean energy goals, using utility scale solar production. For comparison, more than twice that amount is set aside as part of the USDA Conservation Reserve Program, and around one million acres of farmland are used to produce ethanol fuel. Solar projects also accelerate efforts of utilities to shut down their remaining coal-fired plants, eliminating a significant source of pollution and carbon emissions – resulting in benefits to the environment and health of Michigan residents.

Even if the Court does not heavily weigh the aforementioned considerations, Appellants' relief sought to vacate the MPSC's October 10, 2024, Order or in the alternative vacate the portions challenged therein should still be denied. The various bases for denial of Appellants' request are correctly and eloquently detailed in the Brief of Appellee MPSC, which was filed with the Court on February 7, 2025. MRCC concurs with MPSC's Brief and request to affirm the Commission's October 10, 2024, Order.



MRCC agrees with the MPSC regarding the fact that Appellants' claims appear to be premised on hypothetical contingent future events which cannot be ripe for appellate review. And, as the MPSC accurately articulates, even if the Court agrees to hear and rule on this matter, Appellants do not come close to satisfying their elevated burden of showing by clear and satisfactory evidence that the MPSC's interpretations of PA 233 as outlined in the October 10, 2024, Order, constituted "rewriting" of PA 233 or were unreasonable or unlawful.

In the Brief on Appeal, the Appellants assert that, "[t]he language of the statute [PA 233] as a whole and of § 226(8), in particular, demonstrates the Legislature's intent that CREOs may contain additional, but not more restrictive, than the regulations under § 226(8)." (Appellants' Brief, p 25.) However, § 221(f) specifies: "'Compatible renewable energy ordinance' means an ordinance that provides for the development of energy facilities within the local unit of government, the requirements of which are no more restrictive than the provisions included in section 226(8)." MRCC agrees with MPSC's position that any additional restrictions imposed outside of those delineated in section 226(8) inevitably and inherently result in restrictions greater than those included in section 226(8). The MPSC's interpretation of PA 233 in the October 10, 2024, Order, was consistent with the plain language of the statute.

MRCC concurs with MPSC's interpretation of the terms "affected local unit" and "hybrid facility" for the same reasons articulated in Appellee MPSC's Brief. MRCC also agrees with MPSC's position that it did not violate the Administrative Procedures Act with respect to the October 10, 2024, Order at issue, as the Order did not constitute rulemaking; rather the implementation of the October 10 Order was simply a reasonable interpretation of PA 233, a function of the MPSC as expressly authorized by statute.

MRCC further concurs with Intervening Appellees' Brief on Appeal regarding the fact that the October 10, 2024, Order did not violate Administrative Procedures Act and correctly defined

the terms at issue. Lastly, MRCC supports the Brief of Proposed *Amici Curiae* Clara and Leonard Ostrander, Teresa Himes, and Kevin Heath. MRCC concurs that Appellants have not satisfied any of the mandatory four elements of the requirements for a preliminary injunction.

### III. CONCLUSION

MRCC concurs with the relief requested by Appellee MPSC, and agrees that this appeal appears to be an attempt by Appellants to litigate dissatisfaction relative to PA 233 rather than any cognizant and logical claim against the MPSC and its October 10, 2024, Order. For the reasons stated, Amicus Curiae respectfully urges this Honorable Court to affirm the Michigan Public Service Commission's October 10, 2024, Order, and deny Appellants' relief sought.

Respectfully submitted,

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**Proof of Service**

I, Mina Zaky, hereby certify that on February 27, 2025, I filed the Michigan Regional Council of Carpenters and Millwrights' Leave to File Brief as *Amicus Curiae* with the Clerk of the Court for the Michigan Court of Appeals through the Court's electronic filing system, which will serve copies of the same on all counsel of record.

Respectfully submitted,

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