

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)
directing **MARTELL CABLE SERVICES, INC.**,)
to show cause why it should not be)
found to be in violation of the Uniform Video)
Services Local Franchise Act, 2006 PA 480,)
MCL 484.3301 *et seq.*)
_____)

Case No. U-20093

At the February 22, 2018 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER

The Commission Staff (Staff) has determined that Martell Cable Services, Inc., (Martell Cable) may be in violation of the Uniform Video Services Local Franchise Act, 2006 PA 480, MCL 484.3301 *et seq.* Specifically, the Staff reports that Martell Cable has failed to provide information to the Commission required under MCL 484.3309(4).

MCL 484.3309(1)-(4) provides as follows:

- (1) A video service provider shall not deny access to service to any group of potential residential subscribers because of the race or income of the residents in the local area in which the group resides.

- (2) It is a defense to an alleged violation of subsection (1) if the provider has met either of the following conditions:

(a) Within 3 years of the date it began providing video service under this act, at least 25% of households with access to the provider's video service are low-income households.

(b) Within 5 years of the date it began providing video service under this act and from that point forward, at least 30% of the households with access to the provider's video service are low-income households.

(3) If a video service provider is using telecommunication facilities to provide video services and has more than 1,000,000 telecommunication access lines in this state, the provider shall provide access to its video service to a number of households equal to at least 25% of the households in the provider's telecommunication service area in the state within 3 years of the date it began providing video service under this act and to a number not less than 50% of these households within 6 years. A video service provider is not required to meet the 50% requirement in this subsection until 2 years after at least 30% of the households with access to the provider's video service subscribe to the service for 6 consecutive months.

(4) Each provider shall file an annual report with the franchising entity and the commission regarding the progress that has been made toward compliance with subsections (2) and (3).

Thus, subsection (4) requires submission of an annual report to the Commission containing the specific information required under subsections (2) and (3). On October 2, 2017, the Staff notified Martell Cable that the annual report was due on October 20, 2017. The report was not submitted. Thereafter, the Staff sent emails to, and left voicemails for, Martell Cable's designated contact person. On November 6, 2017, the Staff sent a Final Notice letter to Martell Cable, Certified Mail – Return Receipt Requested. The certified card was returned, signed by Mr. Martell, but no report was submitted. Following receipt of the certified card from Mr. Martell, the Staff continued to send emails to Martell Cable's designated staff person. The Staff attempted to leave voicemail messages, but the voicemail at the designated phone number was full.

On December 18, 2017, the Staff left Mr. Martell a voicemail message stating that his Section 9 information was past due. On December 19, 2017, the Staff reached Mr. Martell via telephone and he informed the Staff that his computer was broken for the previous two weeks.

During that phone conversation, the Staff informed Mr. Martell that the Commission had not received the company's Section 9 information. Also on December 19, 2017, the Staff sent Martell Cable a follow-up email to the conversation reiterating that the Section 9 information was needed. The email included copies of all previous correspondence. Martell Cable did not return the Section 9 information. On January 2, 2018, the Staff sent Martell Cable another email reminder about the company's Section 9 obligations. To date, Martell Cable has provided none of the required information to the Commission.

In addition, MCL 484.3302(3)(h) provides that:

(3) The uniform video service local franchise agreement created under subsection (1) shall include all of the following provisions:

(h) A requirement that the provider agrees to comply with all valid and enforceable federal and state statutes and regulations.

Martell Cable's status is listed as "dissolved" on the Department of Licensing and Regulatory Affairs (LARA) Corporations Division website. LARA indicates that Martell Cable has not filed an annual report since 2012.

As set forth above, compliance with federal and state statutes and regulations is a condition of operating a video service local franchising business in the state of Michigan. Accordingly, on October 25, 2017, the Staff sent Martell Cable an email informing the company of the requirement to update the company's status with LARA's Corporations Division. To date, Martell Cable's status remains "dissolved."

Therefore, the Commission finds that it should order Martell Cable to show cause why it should not be found to be in violation of the above-described provisions of the Act. Toward that end, Martell Cable is ordered to file a response in this docket by 5:00 p.m. on March 26, 2018. Martell Cable's response shall be accompanied by prefiled direct testimony, exhibits, work papers,

and affidavits supporting the veracity of its response prepared by a person or persons with actual knowledge of the circumstances.

Martell Cable is also ordered to appear with counsel at a prehearing conference scheduled for 10:00 a.m. on April 25, 2018, before Administrative Law Judge Sharon L. Feldman (ALJ) at the Commission's offices, 7109 W. Saginaw Hwy., Lansing, Michigan, 48917. Any interested person may file a petition for leave to intervene by April 18, 2018. All further proceedings in this matter shall be scheduled by the ALJ.

THEREFORE, IT IS ORDERED that:

A. Martell Cable Services, Inc., shall file its response to the allegations set forth in this order to show cause and supporting documentation in this docket by 5:00 p.m. on March 26, 2018.

B. Petitions for leave to intervene in this matter shall be filed by April 18, 2018.

C. Martell Cable Services, Inc., shall appear with counsel at a prehearing conference scheduled for 10:00 a.m. on April 25, 2018, before Administrative Law Judge Sharon L. Feldman at the Commission's offices, 7109 W. Saginaw Hwy., Lansing, Michigan, 48917.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the appropriate court within 30 days of the issuance of this order, pursuant to MCL 484.2203(12). To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscdockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of

such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of February 22, 2018.

Kavita Kale, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-20093

County of Ingham)

Lisa Felice being duly sworn, deposes and says that on February 22, 2018 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).



Lisa Felice

Subscribed and sworn to before me
This 22nd day of February 2018



Steven J. Cook
Notary Public, Ingham County, Michigan
As acting in Eaton County
My Commission Expires: April 30, 2018

Service List for Case: U-20093

Name

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