

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)	Case No. U-20504
in violation of the Uniform Video Services Local)	
Franchise Act, 2006 PA 480, MCL 484.3301 <i>et seq.</i>)	
_____)	

At the July 2, 2019 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Daniel C. Scripps, Commissioner

ORDER GRANTING MOTION TO AMEND SHOW CAUSE ORDER

On April 18, 2019, the Commission issued an order in this docket (April 18 order) stating that the Commission Staff (Staff) had determined that Martell Cable Services, Inc. (Martell Cable) may be in violation of the Uniform Video Services Local Franchise Act, 2006 PA 480 (Act 480), MCL 484.3301 *et seq.*

Specifically, the Staff reported that Martell Cable had failed to provide information to the Commission required under MCL 484.3309 (Section 9).

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) of Section 9 requires submission of an annual report to the Commission containing specific information required under subsections (2) and (3). On October 1, 2018, the Staff notified Martell Cable via regular mail and email that the Section 9 annual report was due October 19, 2018. On October 15 and 18, 2018, the Staff sent the company reminder emails to file the report. On October 22, 2018, the Staff sent a Past Due Notice via regular mail and email. On October 30, 2018, the Staff sent a Final Notice letter via certified mail with a due date of November 6, 2018. On December 3, 2018, the Final Notice letter was returned to the Commission as unclaimed.

In addition to the above annual report, video cable providers are required to submit to the Commission an annual survey pursuant to MCL 484.3312 (Section 12), which provides, in pertinent part:

(2) A video service provider shall submit to the commission any information requested by the commission necessary for the preparation of the annual report required under this subsection.

On November 30, 2018, in accordance with Section 12 requirements, the Staff sent Martell Cable the 2018 Video/Cable Provider survey letter via certified mail and email with a due date of December 14, 2018. On December 10, 2018, the Staff sent the company a reminder via email. On December 17, 2018, the Staff sent a Past Due Notice via email. On December 19, 2018, the Staff sent a Final Notice letter regarding the survey via certified mail and email. On January 2, 2019, the Video/Cable Provider survey letter was returned to the Commission as unclaimed by Martell Cable. On January 18, 2019, the Final Notice letter was returned to the Commission as unclaimed by Martell Cable.

In addition, on June 28, 2018, in Case No. U-20093 (June 28 order), the Commission ordered Martell Cable to provide documentation prior to the company's annual Section 9 filing that the company had updated its status as a legally operating corporation with the Corporations, Securities & Commercial Licensing Bureau of the Department of Licensing and Regulatory Affairs (LARA).

As of April 18, 2019, the Commission had not received either the Video Cable Provider Survey, the Section 9 report, or the required documentation relating to the company's status as a legally operating corporation with LARA. In response, on April 18, 2019, the Commission issued the April 18 order directing Martell Cable to show cause why the company should not be found in violation of the above-described sections of Act 480 and the June 28 order. Martell Cable was ordered to file a response in this docket by 5:00 p.m. on May 14, 2019. Martell Cable's response was to 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 was also ordered to appear with counsel at a prehearing

conference scheduled for 9:00 a.m. on May 21, 2019, before Administrative Law Judge Kandra K. Robbins (ALJ) at the Commission's offices, 7109 W. Saginaw Highway, Lansing, Michigan, 48917. Interested parties were to file a petition for leave to intervene by May 14, 2019. All further proceedings in this matter were to be scheduled by the ALJ.

On May 21, 2019, a prehearing conference was held before the ALJ. Mr. Anthony Martell appeared at the proceeding *in pro per* despite having been informed that he could not represent Martell Cable corporation because he is not an attorney; however, the Staff stated that Mr. Martell may be operating Martell Cable as a sole proprietorship under the name "Martell Cable Service" or "Martell Cable Services," rather than as a corporation.¹ The Staff requested an adjournment to provide Mr. Martell with additional time to provide documentation to clarify his company's operating status. The ALJ granted the adjournment and rescheduled the prehearing conference for June 5, 2019, acknowledging that "[t]he parties have an understanding between themselves as to what documents are necessary to be presented for a resolution in this matter." 1 Tr 5.

On June 3 and 4, 2019, Mr. Martell filed a status report and affidavit for Martell Cable Service. It is not clear whether the report and survey were filed on behalf of the corporation or the sole proprietorship. Neither is it clear the date on which Martell Cable, the corporation, became Martell Cable Service, the sole proprietorship.

On June 5, 2019, a second prehearing conference was held before the ALJ at which Mr. Martell again appeared *in pro per*. At this proceeding, he asserted that he is the sole proprietor of Martell Cable Service. The ALJ did not permit Mr. Martell to proceed because the case is

¹ On May 20, 2019, Mr. Martell filed a document in this docket indicating that on May 20, 2019, he filed a notarized certificate with Oakland County, Michigan, stating that he now owned or intended to own, conduct, and transact business under the name of "Martell Cable Service." See, certificate of persons conducting business under assumed name, Case No. U-20504 filing #U-20504-0008.

captioned to the corporation, Martell Cable Services, Inc. A contested proceeding was scheduled for September 4, 2019. 2 Tr 8-15.

On June 12, 2019, the Staff filed a motion to amend the April 18 order to add language to compel Mr. Martell, d/b/a Martell Cable Service, to provide the documentation required by the April 18 order and to require Mr. Martell to timely provide all documentation that may be requested by the Staff.

The Commission finds that the motion should be granted, and that Anthony Martell, d/b/a Martell Cable Service, shall timely provide all documentation as requested by the Staff.

THEREFORE, IT IS ORDERED that:

A. The caption of Case No. U-20504 is amended to include Anthony Martell, d/b/a Martell Cable Service, and shall read: In the matter, on the Commission's own motion, directing Martell Cable Services, Inc., and Anthony Martell, d/b/a Martell Cable Service, to show cause why it and/or he should not be found to be in violation of the Uniform Video Services Local Franchise Act, 2006 PA 480, MCL 484.3301 *et seq.*

B. Anthony Martell, d/b/a Martell Cable Service, shall file his response to the allegations set forth in this order to show cause accompanied by supporting documentation in this docket by 5:00 p.m. (Eastern time) on July 17, 2019.

C. Petitions for leave to intervene in the matter shall be filed by July 17, 2019.

D. Anthony Martell, d/b/a Martell Cable Service, shall appear at a contested proceeding scheduled for 9:00 a.m. (Eastern time) on September 4, 2019, before Administrative Law Judge Kandra K. Robbins at the Commission's offices, 7109 W. Saginaw Highway, 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 Michigan Court of Appeals within 30 days of the issuance of this order, pursuant to MCL 484.3314(4) and 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 mpscedockets@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

Daniel C. Scripps, Commissioner

By its action of July 2, 2019.

Barbara S. Kunkel, Acting Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

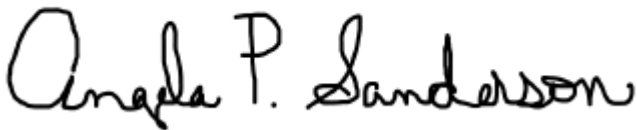
Case No. U-20504

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on July 2, 2019 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).


Brianna Brown

Subscribed and sworn to before me
this 2nd day of July 2019.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case: U-20504

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Kandra Robbins	robbinsk1@michigan.gov
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Barry County Telephone Company
Carr Telephone Company
Chapin Telephone Company
Climax Telephone Company
Cypress Comm Oper Company,
Hiawatha Telephone Company
IBFA Acquisition Company
Kaleva Telephone Company
Lennon Telephone Company
Ogden Telephone Company
Pigeon Telephone Company
Sand Creek Telephone Company
Springport Telephone Company
Springport Telephone Company
Sprint Communications Company, L.P.
TNCI Operating Company, LLC
U.S. Signal Company, LLC
Waldron Telephone Company
Allband Communications Cooperative
FairPoint Communications Solutions Corp.
New Horizons Comm Corp.
Range Corporation
TruComm Corporation
Jie Cui
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Birch Telecom of the Great Lakes, Inc.
Level3 Comm
BT Communications Sales LLC
Bingham McCutchen LLP
Lucre, Inc.
Telecom Management, Inc., dba Pioneer Long
Robert McCausland
MetroNet-Telecom, Inc
Metropolitan Telecomm of MI
Ace Telephone Company of Michigan, Inc.
Charter Fiberlink- Michigan, LLC
Fibernet of Michigan
Frontier Communications of Michigan
Local Exchange Carriers of Michigan, Inc.
Chrissie Pearce- MPSC
MiTel NetSolutions
ATI Network,s Inc
Bright House Network
Broadview Networks & A.R.C. Networks,
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