

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the verified complaint of)	
CITY OF ADRIAN for resolution of a dispute)	
with COMCAST OF MICHIGAN under the)	Case No. U-15427
Uniform Video Services Local Franchise Act.)	
_____)	

At the October 13, 2009 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Steven A. Transeth, Commissioner

OPINION AND ORDER

On September 20, 2007, the City of Adrian (Adrian) filed a complaint alleging certain disputes arising out of an alleged attempt by Comcast of Michigan (Comcast) to unilaterally create a local franchise agreement and to unilaterally resolve a dispute over the terms of a franchise agreement. At that time, the Commission lacked a legislatively approved dispute resolution process. Although the Commission proposed a process for the parties to follow, by letter dated November 8, 2007, Comcast rejected the Commission’s offer to adjudicate this dispute.¹

Due to the lack of a statutory mechanism to address complaints, this matter was held in abeyance until the passage into law of 2009 PA 4, amending 2006 PA 480, the Uniform

¹The Commission is aware that some informal mediation has been conducted in this matter and that certain issues alleged in the September 20, 2007 complaint have been settled.

Video Services Local Franchise Act (the Act). 2009 PA 4 amends Section 10 of the Act, MCL 484.3310, to provide for a dispute resolution process. MCL 484.3310(6)(b) provides for the filing of a formal complaint that must be accompanied by “all information, testimony, exhibits, or other documents and information within the moving party’s possession on which the party intends to rely.” MCL 484.3310(6)(b).

Because Adrian’s original complaint was not accompanied by testimony, the city was informed that it would be necessary for it to amend the complaint prior to proceeding with the formal resolution process. Adrian filed an amended complaint against Comcast on July 8, 2009.

On July 20, 2009, Administrative Law Judge Mark E. Cummins (ALJ) was appointed mediator of this dispute pursuant to the provisions of Section 10(6) of the Act, MCL 484.3310(6). By letter dated July 21, 2009, the ALJ directed Comcast to submit a general response or answer to Adrian’s amended complaint by July 31, 2009. Both parties were given until August 10, 2009 to submit their proposed recommended settlements to the ALJ. The parties were given until August 17, 2009 to provide written responses to the opposing party’s recommended settlement.

On September 18, 2009, the ALJ filed his recommended settlement under seal with the Commission’s Executive Secretary, and the recommended settlement was served on the parties. On September 24, 2009, Adrian filed its position on the recommended settlement in a separate envelope under seal. Similarly, on September 25, 2009, Comcast filed its position on the recommended settlement.

On September 28, 2009, Chief Administrative Law Judge James N. Rigas cancelled a scheduled prehearing conference and transmitted the matter to the Commission for its consideration because the mediator’s recommended settlement had been accepted by the parties.

MCL 484.2203a(3) provides that “If the parties accept the recommendation [of the mediator], then the recommendation shall become the final order in the contested case under section 203.” Therefore, the Commission adopts the mediator’s recommendation, and finds that this proceeding should be closed.

THEREFORE, IT IS ORDERED that the mediator’s recommendation is adopted and the proceeding is closed.

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, under MCL 484.2203(12).

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Steven A. Transeth, Commissioner

By its action of October 13, 2009.

Mary Jo Kunkle, Executive Secretary