

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
directing Pine River Cable to show cause why it)
should not be found to be in violation of the) Case No. U-16181
Uniform Video Services Local Franchise Act, 2006)
PA 480, MCL 484.3301 *et seq.*)
_____)

At the January 11, 2010 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Greg R. White, Commissioner

OPINION AND ORDER

In December 2009, the Commission Staff (Staff) learned of allegations that Pine River Cable (Pine River) may be in violation of the Uniform Video Services Local Franchise Act, 2006 PA 480, MCL 484.3301 *et seq* (the Act). Among other things, the Staff reports that as of December 11, 2009, there were a total of nine residential customer complaints open and one informal complaint submitted by the Village of Marion. According to the Staff, these complaints have all far exceeded the 10-day open period without a response from the company.

The Staff asserts that the alleged violations of the Act include the following:

In the Village of Perrinton

- Pine River left the community around September 2009 without notification.
- Unclear as to whether the community had a franchise agreement with Pine River.

In Fulton Township

- Pine River discontinued service to the community without notification.
- No franchise agreement existed.

In McBain City

- Pine River shut service off around November 23, 2009 without notification to the community.
- Pine River had taken cable over from Charter Communications, and the community is not aware of any franchise agreement that Pine River had entered into.

In the Village of Maple Rapids

- Pine River tried getting an updated franchise agreement, but after the community signed it, they never received a completed signed copy back from Pine River.
- Pine River owes the community franchise fees.
- Pine River shut service off around Aug/Sept 2009 without any notification. (Village found out only because they had been calling to collect back payments and then it was told at that time over the phone that services would not be restored.)
- Village still believes that Pine River may be operating services in some areas without a franchise agreement.

In Carson City

- Pine River did not have a franchise agreement with the city.
- No franchise fees are being paid to the city.
- Services were shut off without notification to the city by Pine River.
- Pine River still has equipment in the area, and it is believed that they are still servicing the hospital without a franchise.

In the Village of Marion

- 3% franchise fees are not being paid.
- Village stated that the company was not authorized to provide service to the communities.

The Commission was informed that the Staff contacted the communities (except the Village of Marion) to investigate whether Pine River had been operating in their area. The Staff has reason to believe that other communities may have been adversely affected by Pine River's actions as well.

Based on customer complaints, as well as information gained by the Staff contacting communities in which Pine River was operating, the Staff has the following concerns regarding potential violations of the Act:

- That Pine River may be in violation of MCL 484.3302(2) due to its alleged failure to enter into Uniform Video Services Local Franchise Agreements before operating video service in Michigan.
- That Pine River may be in violation of MCL 484.3303(1) to MCL 484.3303(6) for allegedly failing to enter into Uniform Video Service Local Franchise Agreements and by allegedly failing to provide notice to local communities of any changes that may be occurring.
- That Pine River may be in violation of MCL 484.3306(1), which pertains to the designation and payment of franchise fees.
- That Pine River may be in violation of MCL 484.3310, which pertains to customer protections and dispute resolution procedures.
- That Pine River may be in violation of MCL 484.3310(5)(a), which requires a provider to respond to an informal customer complaint in 10 days.

Therefore, the Commission finds that it should order Pine River to show cause why it should not be found to be in violation of the above-described provisions of the Act. Toward that end, Pine River is ordered to file a response in this docket by 5:00 p.m. on February 12, 2010 to each of the above-described allegations. In addition, Pine River's response shall explain whether it has entered into Uniform Video Service Local Franchise Agreements as required by the Act. If Pine River's contention is that such franchise agreements exist, then the provider shall submit executed copies of those agreements to the Staff for review by February 26, 2010. Pine River'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 details of Pine River's positions. The responsive pleading, prefiled direct testimony, exhibits, and other supportive documentation shall provide the Commission with thorough and complete details regarding every allegation of wrongdoing outlined above.

Pine River is also ordered to appear with counsel at a prehearing conference scheduled for 9:00 a.m. on March 9, 2010 before an Administrative Law Judge Sharon L. Feldman (ALJ) at the

Commission's offices, 6545 Mercantile Way, Lansing, Michigan, 48911. Any interested person may file a petition for leave to intervene by March 1, 2010. All further proceedings in this matter shall be scheduled by the ALJ.

All documents filed in this case shall be submitted electronically through the Commission's E-Dockets Website at: michigan.gov/mpscedockets. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted, in Word or PDF format, as an attachment to an email sent to mpscedockets@michigan.gov. If you require assistance prior to e-filing, contact the Staff at (517) 241-6170 or by e-mail at mpscedockets@michigan.gov.

Comments and other documents received in this matter will become public information, posted on the Commission's website, and subject to disclosure.

To ensure notice to affected areas, the Commission's Executive Secretary shall serve a copy of this order on all known communities served by Pine River Cable.

THEREFORE, IT IS ORDERED that:

A. Pine River Cable shall file its response to the allegations set forth in this order to show cause and supporting documentation by 5:00 p.m. on February 12, 2010.

B. If Pine River Cable contends that it has franchise agreements for its service areas, then Pine River Cable shall submit copies of the executed agreements to the Commission Staff for review by 5:00 p.m. on February 26, 2010.

C. Petitions for leave to intervene in this matter shall be filed by March 1, 2010.

D. Pine River Cable shall appear with counsel at a pre-hearing conference scheduled for 9:00 a.m. on March 9, 2010 before Administrative Law Judge Sharon L. Feldman at the Commission's offices, 6545 Mercantile Way, Lansing, Michigan, 48911.

E. The Commission's Executive Secretary shall serve a copy of this order on all known communities served by Pine River Cable.

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

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Greg R. White, Commissioner

By its action of January 11, 2010.

Mary Jo Kunkle, Executive Secretary