

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
directing CableMax Communications to show)
cause why it should not be found to be in violation) Case No. U-16182
of the 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

On December 7, 2009, the Commission Staff (Staff) began receiving an unusually high number of customer complaints regarding CableMax Communications (CableMax) that might involve violations of the Uniform Video Services Local Franchise Act, 2006 PA 480, MCL 484.3301 *et seq* (the Act). The Staff reports that 12 customers of CableMax allegedly were experiencing either total service outages or the loss of at least 50% of the channels on their service line-ups. According to the Staff, the affected customers stated that they were not notified by CableMax of the reason for the outages and that all attempts to contact the company to seek redress were met with a recorded message that the company's phone number was no longer in service.

The next day, the Staff learned that CableMax was allegedly operating in all of its service areas without Uniform Video Services Local Franchise Agreements. The Staff also learned that CableMax allegedly was shutting off services to communities and customers without providing notice.

According to the Staff, CableMax may be in violation of several sections of the Act. Among other things, the Staff reports that as of December 11, 2009, the complaints indicated all of the following problems with services offered by CableMax:

- Several customers are reporting that 50%-100% of the cable services have been removed without notification.
- Attempts by customers and the Staff to contact the company are unsuccessful – a recorded message indicates that the phone number is no longer in service.
- Customers report that services paid for are not being received.
- CableMax apparently lacks a franchise to provide video services in the following communities:
 - Brutus
 - Fine Lake
 - Akron/Fairgrove
 - Unionville
 - Mesick
 - Kaleva
 - Nashville
- CableMax is alleged to have shut off service to customers without any notification to them or the community.

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

- That CableMax 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 CableMax 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 CableMax may be in violation of MCL 484.3306(1), which pertains to the designation and payment of franchise fees.
- That CableMax may be in violation of MCL 484.3310, which pertains to customer protections and dispute resolution procedures.
- That CableMax 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 CableMax to show cause why it should not be found to be in violation of the above-described provisions of the Act. Toward that end, CableMax 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, CableMax's response shall explain whether it has entered into Uniform Video Service Local Franchise Agreements as required by the Act. If CableMax'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. CableMax'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 CableMax'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.

CableMax is also ordered to appear with counsel at a prehearing conference scheduled for 10:00 a.m. on March 9, 2010 before 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 CableMax.

THEREFORE, IT IS ORDERED that:

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

B. If CableMax Communications contends that it has franchise agreements for its service areas, then CableMax Communications 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. CableMax Communications shall appear with counsel at a prehearing conference scheduled for 10:00 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 CableMax Communications.

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