



Agenda Date: 10/15/15
Agenda Item: 4A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF NMG TELECOM, LLC'S FAILURE) ORDER TO SHOW CAUSE
TO COMPLY WITH REGULATIONS REQUIRING)
FILING OF ANNUAL REPORTS AND STATEMENT OF)
GROSS INTRASTATE REVENUE) DOCKET NO. TS15091018

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Monte Banash, President, NMG Telecom, LLC

BY THE BOARD:

The New Jersey Board of Public Utilities ("Board"), an agency within a principal department of the Executive Branch of State Government, with principal offices at 44 South Clinton Avenue, Trenton, New Jersey, by way of Order to Show Cause, alleges:

- 1) The Board, pursuant to N.J.S.A. 48:2-13 and N.J.S.A. 48:2-1 et seq., has been granted general supervision and regulation of and jurisdiction and control over all public utilities, including individuals, co-partnerships, associations and corporations, that own, manage or control telecommunications facilities that operate in New Jersey as well as their property, property rights, equipment, facilities and franchises.
- 2) The Board, pursuant to N.J.S.A. 48:2-1 et seq., is vested with the authority to regulate all aspects of public utilities in the State of New Jersey, and to adopt rules and regulations concerning such activities, and, pursuant to N.J.S.A. 48:2-19, to investigate any matter involving a public utility.
- 3) Pursuant to N.J.S.A. 48:2-16(2)(b) and N.J.A.C. 14:3-6.3, a utility shall file an annual report ("AR") as of December 31 of each year, due on or before March 31 of the following year.
- 4) Pursuant to N.J.S.A. 48:2-16.3, failure of a utility to file an annual report by the due date shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed.

- 5) Pursuant to N.J.S.A. 48:2-62, a utility shall file a statement of gross intrastate revenue from operations ("SGIR") form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.
- 6) On November 13, 2012, Respondent, NMG Telecom, LLC ("Respondent" or "NMG"), filed a petition with the Board and was later granted authority to provide telecommunications services throughout New Jersey by Order dated February 20, 2013 in In the Matter of the Petition of NMG Telecom, LLC for Authority To Provide Local Exchange Telecommunications Services in the State of New Jersey, Docket No. TE12111001 ("2013 Order"). The 2013 Order required NMG, among other things, to comply with N.J.S.A. 48:2-16(2)(b), N.J.S.A. 48:2-62, and N.J.A.C. 14:3-6.3. Id. at 3-4.
- 7) Respondent is a public utility in the State of New Jersey and a provider of telecommunications services subject to the jurisdiction of the Board with an address of record at 2520 Avenue L, Brooklyn, NY 11210.
- 8) Moreover, under N.J.S.A. 48:2-59 and 48:2-60, Respondent is obligated to pay an annual assessment to the Board for fiscal year ("FY") 2015 and 2016 based on gross intrastate revenues for calendar year ("CY") 2013 and 2014, respectively. Because Respondent failed to file its CY 2013 AR and SGIR, the Board did not assess NMG for fiscal year 2015 because NMG failed to report its revenue information for CY 2013 with the Board. Assessment liability for fiscal year 2016, based on gross intrastate revenues as of December 31, 2014, is not yet computed.
- 9) The Division of Audits Staff made numerous attempts by phone, e-mail and letter to contact NMG to advise NMG to file its AR and SGIR for CY 2013 and 2014.
- 10) On August 7, 2015, Staff from the Division of Telecommunications notified Respondent by certified mail that it was in violation of N.J.S.A. 48:2-16(2)(b), N.J.A.C. 14:3-6.3 and N.J.S.A. 48:2-62. Respondent was advised that it was also in violation of N.J.S.A. 48:2-16.3 and is assessed a penalty of \$5.00 per day for non-compliance of the filing of its AR. The letter computed the penalty violation to July 31, 2015 for the total sum of \$3,045.00. The letter also notified respondent that non-compliance would prompt further Board action and could result in revocation of respondent's approval to provide local exchange telecommunications service in New Jersey. NMG did not respond to Staff's certified mail notice.
- 11) Respondent, in not filing an AR for CY 2013 and CY 2014, is in violation of the statutes referenced above and is therefore required to pay \$3020.00 for failure to file its CY 2013 AR for 604 days and \$1195.00 for failure to file its CY 2014 AR for 239 days, for a total of \$4215.00 computed up to November 25, 2015.

The Board **HEREBY ORDERS:**

- 1) NMG Telecom, LLC to show cause before the Board why the Board should not find that Respondent: (i) failed to submit its Annual Report to the Board; and (ii) failed to comply with the terms and conditions of the Board's 2013 Order.
- 2) NMG Telecom, LLC to file an Answer to this Order to Show Cause and any and all documents or other written evidence upon which it relies in responding to the within Order to Show Cause by November 25, 2015.

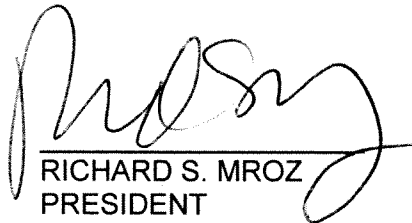
If NMG Telecom, LLC fails to respond to the within Order to Show Cause by November 25, 2015, then the authority granted to Respondent to provide telecommunications services throughout New Jersey at Docket No. TE12111001 shall be revoked by the Board.

The Board **HEREBY DIRECTS** that a certified copy of this Order be served upon Respondent pursuant to N.J.S.A. 48:2-40.


This Order shall be effective October 25, 2015.


DATED: *October 15, 2015*


BOARD OF PUBLIC UTILITIES
BY:

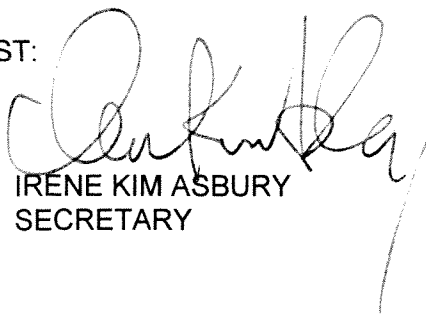

RICHARD S. MROZ
PRESIDENT

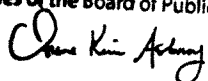

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COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.


IN THE MATTER OF NMG TELECOM, LLC'S FAILURE TO COMPLY WITH
REGULATIONS REQUIRING FILING OF ANNUAL REPORTS AND
STATEMENT OF GROSS INTRASTATE REVENUE

DOCKET NO. TS15091018

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