



Agenda Date: 9/30/14
Agenda Item: 4C

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 NETTALK.COM, INC.'S FAILURE) ORDER TO SHOW CAUSE
TO COMPLY WITH REGULATIONS REQUIRING)
PAYMENT OF AN ANNUAL ASSESSMENT AND)
FILING OF ANNUAL REPORTS) DOCKET NO. TS14080936

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Anastasios N. Kyriakides, CEO, NetTalk.com, Inc.

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 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 June 9, 2009, Respondent, NetTalk.com, Inc. ("Respondent" or "NetTalk"), filed a petition with the Board and was later granted Authority to provide telecommunications services throughout New Jersey by Order dated November 10, 2009 in In the Matter of the Petition of NetTalk.com, Inc. for Authority To Provide Local Exchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE09060455 ("2009 Order"). The 2009 Order required NetTalk, among other things, to comply with N.J.S.A. 48:2-16, 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 1080 NW 163rd Drive, North Miami Beach, FL 33169.
- 8) NetTalk filed its annual report for calendar year ("CY") 2012, on August 7, 2013, 128 days late, which resulted in a penalty of \$640.00. NetTalk filed its CY 2013 annual report, due March 31, 2014, on July 14, 2014, which was 104 days late and results in a penalty of \$520.00.
- 9) Additionally, NetTalk has failed to comply with N.J.S.A. 48:2-62, whereby NetTalk is required to file its SGIR form as of December 31, 2012, which was due on or before June 1, 2013. NetTalk filed this report on August 7, 2013. NetTalk was also delinquent in filing its 2013 SGIR form, which was due June 1, 2014, and was filed on June 13, 2014.
- 10) Respondent having filed its annual report 128 days late for the CY 2012 and 104 days late for CY 2013 is in violation of the statutes referenced above and therefore is required to pay \$1,160.00 in penalties for noncompliance and \$500.00 for assessment fees.
- 11) The Division of Audits Staff made several attempts by e-mail to contact NetTalk to have them file the annual report and to pay the assessment. Most notably, in addition to sending the company a regular billing invoice on November 22, 2013, Staff e-mailed Respondent's contact on January 31, 2014. After failure of the Respondent to pay its assessment of \$500.00, a second, third and fourth request by e-mail was sent to Respondent's authorized contact on March 6, 2014, April 1, 2014 and April 21, 2014 respectively.
- 12) On August 4, 2014, Staff from the Division of Telecommunications notified Respondent that it was in violation of N.J.S.A. 48:2-59 and 48:2-60, and 48:2-62 and is required to pay \$500.00 for its FY 2014 assessment and \$1,160.00 in penalties for noncompliance within 10 business days. Nonpayment would prompt further Board action and could result in a revocation of Respondent's approval to provide local and interexchange telecommunications service in New Jersey. NetTalk did not respond to Staff's notice.

The Board **HEREBY ORDERS:**

- 1) NetTalk to show cause before the Board why the Board should not find that NetTalk (i) failed to file its annual reports in a timely manner; (ii) failed to submit the requisite assessment to the Board; and (iii) failed to comply with the terms and conditions of the Board's 2009 Order.

- 2) NetTalk 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 October 30, 2014.

If NetTalk fails to respond to the within Order to Show Cause by October 30, 2014, then the authority granted to NetTalk to provide telecommunications services throughout New Jersey at Docket No. TE09060455 shall be revoked by the Board.

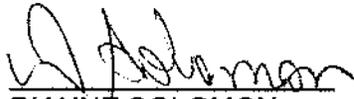
The Board **HEREBY DIRECTS** that a certified copy of this Order be served upon Respondent pursuant to N.J.S.A. 48:2-40.

DATED:

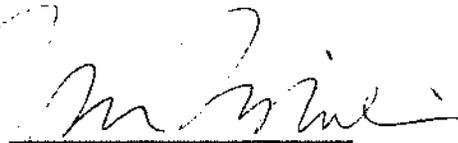
9/30/14

BOARD OF PUBLIC UTILITIES

BY:



DIANNE SOLOMON
PRESIDENT

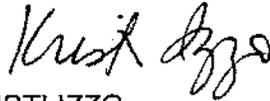


JOSEPH L. FIORDALISO
COMMISSIONER



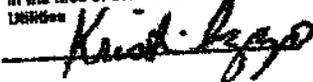
MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:



KRISTI IZZO
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 NETTALK.COM, INC.'S FAILURE TO COMPLY WITH REGULATIONS
REQUIRING PAYMENT OF AN ANNUAL ASSESSMENT AND FILING OF ANNUAL
REPORTS - DOCKET NO. TS14080936

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