



Agenda Date: 11/22/13
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 TALKSPAN, INC.'S FAILURE TO)
COMPLY WITH BOARD ORDER AND APPLICABLE)
STATUTES AND RULES REQUIRING PAYMENT OF)
ANNUAL ASSESSMENTS AND FILING OF ANNUAL)
REPORTS) DOCKET NO. TS13100953

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Menahem Perets, Talkspan, 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 form (AR3-1) as of December 31 of each year, which is due on or before June 1 of the following year.
- 6) On March 5, 2009, Respondent, Talkspan, Inc. ("Respondent" or "Talkspan") filed a petition with the Board and was later granted Authority to provide telecommunications services throughout New Jersey by Order dated April 27, 2009 in In the Matter of the Petition of Talkspan for Approval To Provide Local Exchange Telecommunications Services Throughout the State of New Jersey, Docket No. TE09030188 ("2009 Order"). The 2009 Order required Talkspan, 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 Talkspan, Inc. 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 3823 13th Ave., Brooklyn, NY 11218.
- 8) Staff from the Division of Audits made numerous attempts by e-mail, telephone, and mail to Talkspan to file its Annual reports and pay its past due assessments.
- 9) On September 24, 2013, Staff of the Board's Division of Telecommunications notified Talkspan that it had failed to file its annual report for the years ending December 31, 2009, 2011 and 2012, which was due on or before March 31, 2010, 2012 and 2013 respectively. Talkspan filed its annual report for the year ending 2010, on December 9, 2011 which was 252 days late resulting in a penalty of \$1,260.00. As of September 6, 2013 the late filing fee for not complying with the annual report filing requirement for the calendar years 2009, 2011, and 2012 is \$6,270.00, \$2,620, and \$795.00, respectively.
- 10) Additionally, Talkspan failed to comply with N.J.S.A. 48:2-59, which requires the filing of a Statement of Gross Interstate Revenue form on or before June 1 of each year. Moreover, under N.J.S.A. 48:2-59 and 48:2-60, Talkspan is obligated to pay an annual assessment to the Board for fiscal years 2011 through 2014 based on calendar year 2009 through 2012 revenues. Talkspan filed an annual report for calendar year 2010 and reported zero revenue, however, Talkspan did not pay its assessment liability of \$500.00 for fiscal year 2012, never filed an annual report for calendar year 2009, 2011 and 2012, and did not pay its assessment liability. The statutes require a minimum assessment of \$500.00 per year.
- 11) Respondent is in violation of the statutes referenced above and as such is required to pay \$10,945.00 in penalties for noncompliance as of September 6, 2013, and \$5.00 for each day thereafter. Respondent is also required to pay \$1,500.00 in assessment fees for fiscal years 2011 through 2013.

The Board **HEREBY ORDERS:**

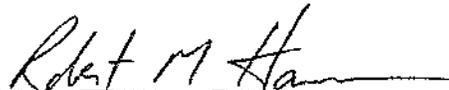
- 1) Talkspan to show cause before the Board why the Board should not find that Talkspan (i) failed to file its annual report in a timely manner; (ii) failed to submit the requisite assessments to the Board; and (iii) failed to comply with the 2009 Order.
- 2) Talkspan to file an Answer to this Order 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 December 23, 2013.

If Talkspan fails to respond to the Order to Show Cause by December 23, 2013, then the authority granted to Talkspan to provide telecommunications services throughout New Jersey in BPU Docket No. TE09030188 shall be revoked by the Board.

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

DATED: 11/22/13

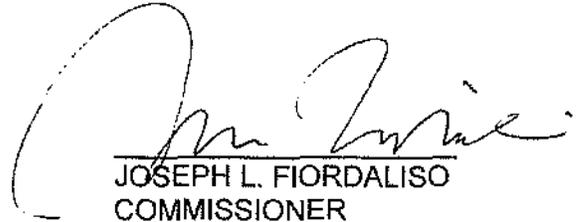
BOARD OF PUBLIC UTILITIES
BY:



ROBERT M. HANNA
PRESIDENT



JEANNE M. FOX
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



MARY-ANNA HOLDEN
COMMISSIONER



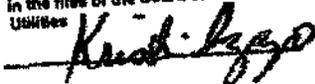
DIANNE SOLOMON
COMMISSIONER

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



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AND FILING OF ANNUAL REPORTS

DOCKET NO. TS13100953

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