



Agenda Date: 8/7/19
Agenda Item: 4A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

IN THE MATTER OF VITCOM, LLC FAILURE TO) ORDER TO SHOW CAUSE
COMPLY WITH REGULATIONS REQUIRING THE)
FILING OF ITS ANNUAL REPORT, STATEMENT OF)
GROSS INTRASTATE REVENUE AND THE PAYMENT)
OF ITS ASSESSMENT) DOCKET NO. TS19070794

Parties of Record:

Zalmen Ashkenezi, CEO, Vitcom, LLC
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

The New Jersey Board of Public Utilities ("Board"), an agency within a department of the Executive Branch of State Government, with principal offices located 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), a utility shall file an Annual Report ("AR") as of December 31st of each year, due on or before March 31st 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 subject the utility 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 January 15, 2014, Respondent, Vitcom, LLC ("Respondent" or "Vitcom"), filed a petition with the Board and was later granted authority to provide Local Exchange and Interexchange telecommunications services throughout New Jersey by Order dated March 19, 2014 in I/M/O the Petition of Vitcom, LLC for Authority To Provide Local Exchange Telecommunications Services throughout the State of New Jersey, Docket No. TE14010054 ("2014 Order"). The 2014 Order required Vitcom, among other things, to comply with 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. 2014 Order at 3.
- 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 4118 18th Ave., Suite 101, Brooklyn, NY 11219.
- 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") 2019 based on gross intrastate revenues for Calendar Year ("CY") 2017. Respondent was mailed the FY 2019 Invoice No. 2523 in the amount of \$500.00 on January 21, 2019, which was due on February 20, 2019. This amount was based on Vitcom reporting Gross Intrastate Revenue of \$0 which was reported on Vitcom CY 2017 SGIR.
- 9) Staff from the Division of Audits made numerous attempts by phone, e-mail and letter to contact and advise Vitcom to file its CY 2018 AR and SGIR and to pay its outstanding state assessment of \$500.00 for FY 2019. On June 5, 2019, Vitcom did file its CY 2018 AR via email but did not file the original via mail.
- 10) On June 20, 2019, Staff from the Office of Cable Television and 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, N.J.S.A. 48:2-62, N.J.S.A. 48:2-59 and N.J.S.A. 48:2-60. 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 the late filing of its Annual Report. The letter computed the penalty violation from April 1, 2019 thru June 4, 2019 at \$5.00 a day for the total sum of \$325.00. The letter also notified respondent that non-compliance within 10 business days would prompt further Board action and could result in revocation of respondent's approval to provide local exchange and interexchange telecommunications service in New Jersey. Vitcom did not respond to Staff's certified mail notice.
- 11) Respondent, in filing its AR for CY 2018 65 days past due is in violation of the statutes referenced above and is subject to a penalty of \$325.00. Respondent has failed to pay the \$500.00 minimum assessment. Respondent currently owes a total of \$825.00.

The Board **HEREBY ORDERS:**

- 1) Vitcom to show cause before the Board why the Board should not find that Respondent:
(i) failed to submit its AR on the due date of March 31, 2019, instead filing it 65 days past due on June 5, 2019; (ii) failed to file its CY 2018 SGIR to the Board; (iii) failed to pay its

2018 assessment, and; (iv) failed to comply with the terms and conditions of the Board's 2014 Order;

- 2) Vitcom to show cause before the Board why the Board should not assess a monetary penalty of \$5.00 per day for Respondent's failure to timely file its CY 2018 AR, calculated at \$325.00 through to the filing on June 5, 2019 which was 65 days past due;
- 3) Vitcom to show cause before the Board why the Board should not revoke the authority granted to Respondent to provide telecommunications services throughout New Jersey in the 2014 Order; and
- 4) Vitcom to file an Answer to this Order to Show Cause and to submit any and all documents or other written evidence upon which it relies in responding to the within Order to Show Cause by September 16, 2019. Respondent may choose to answer this Order to Show Cause by submitting its SGIR and paying its \$500.00 assessment as well as a penalty in the amount of \$325.00.

If Vitcom fails to respond to the within Order to Show Cause by September 16, 2019, then the authority granted to Respondent to provide telecommunications services throughout New Jersey in the 2014 Order, Docket No. TE14010054 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.

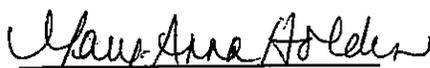
This Order shall be effective August 17, 2019.

DATED: 8/7/19

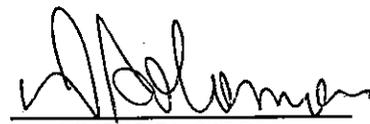
BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



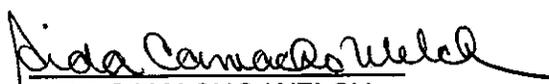
DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF VITCOM, LLC TO COMPLY WITH REGULATIONS REQUIRING THE
FILING OF ITS ANNUAL REPORT, STATEMENT OF GROSS INTRASTATE REVENUE AND
THE PAYMENT OF ITS ASSESSMENT

DOCKET NO. TS19070794

SERVICE LIST

Zalmen Ashkenezi, CEO
Vitcom, LLC
4118 14th Ave., Suite 101
Brooklyn, NY 11219
zalmen@vitcom.net

Stefanie A. Brand, Esq.
Director, Division of Rate Counsel
Post Office Box 003
Trenton, NJ 08625-0003
sbrand@rpa.state.nj.us

Patricia Krogman
Deputy Attorney General
Department of Law & Public Safety
Division of Law
Post Office Box 45029
Newark, NJ 07101-45029
Patricia.krogman@law.njoag.gov

Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350

**Office of Cable Television and
Telecommunications**

Lawanda R. Gilbert, Director
Alan Chris Molner
lawanda.gilbert@bpu.nj.gov
alan.molner@bpu.nj.gov

Division of Audits

Naren Ravaliya
Naren.ravaliya@bpu.nj.gov

Counsel's Office

Carol Artale, Esq.
Deputy Chief Counsel
carol.artale@bpu.nj.gov