



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
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www.nj.gov/bpu/

OFFICE OF CABLE TELEVISION
AND TELECOMMUNICATIONS

TENNY JOURNAL COMMUNICATIONS, INC.)	ORDER ADOPTING
Petitioner)	INITIAL DECISION
)	
v.)	
)	
VERIZON NEW JERSEY, INC.)	DOCKET NO. TC19050576
Respondent)	OAL DOCKET NO. PUC 07829-20

Parties of Record:

John Cory, President, for petitioner, Tenny Journal Communications, Inc.
Keefe B. Clemons, Esq., General Counsel, for respondent, Verizon New Jersey, Inc.¹

BY THE BOARD:

The within matter is a dispute between Tenny Journal Communications, Inc. (“Petitioner” or “Tenny”) and Verizon New Jersey, Inc. (“Verizon” or “Respondent”). This Order sets forth the background and procedural history of Petitioner’s claims and represents the Final Order in the matter pursuant to N.J.S.A. 52:14B-1 to B-15 and N.J.S.A. 52:14F-1 to F-13. Having reviewed the record, the Board of Public Utilities (“Board”) now **ADOPTS** the Initial Decision rendered on June 7, 2021, as follows.

PROCEDURAL HISTORY

On or about May 10, 2019, Tenny filed a petition with the Board of Public Utilities requesting an order directing Verizon, to restore service to certain discontinued telephones, and prevent removal of copper lines to pay telephones in geographic areas where Verizon has yet to install fiber replacement lines.

¹ Mr. Clemons was added as Counsel of Record for Verizon due to the recent death of prior Verizon counsel, Richard C. Fipphen, Esq., Assistant General Counsel, Verizon.

Verizon filed its answer on July 12, 2019. The parties met with Board staff on October 28, 2019, but resolution of the dispute was not achieved. This matter was transmitted to the Office of Administrative Law (OAL), where it was filed on August 19, 2020, as a contested case pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. This matter was assigned to Administrative Law Judge (“ALJ”) Tricia M. Caliguire.

On December 21, 2020, a telephone prehearing conference was held, during which Verizon stated its intention to file a motion to dismiss on or before January 29, 2021. By letter dated December 21, 2020, and received at the OAL on January 5, 2021, Tenny requested leave to amend its petition. By letter dated January 15, 2021, Verizon stated that it had no objections to the motion and requested additional time following receipt of the amended petition to file its motion to dismiss. An order was issued on January 26, 2021, granting Tenny’s motion to amend its petition on or before February 16, 2021. (ID at 2.)

Petitioner failed to file an amended petition by the February 16, 2021 deadline, did not request an extension of the deadline, and provided no explanation for its failure to meet the deadline. By letter dated May 10, 2021, the ALJ directed Tenny to file an amended petition within ten (10) days, and stated that failure to comply with this order would result in the return of this matter to the Board for further disposition. Tenny did not respond to the May 10, 2021 letter, and failed to offer an explanation for its failure to do so. (ID at 2.)

Based on the foregoing record, ALJ Caliguire issued an Initial Decision on June 7, 2021, which concluded that the petitioner failed to prosecute its appeal, and dismissed the matter with prejudice, stating that “absent exigent circumstances, a petitioner’s failure to prosecute a matter should result in its dismissal.” *Henderson v. Jersey Central Power and Light Company*, Dkt. No. PUC 2470-10, Initial Decision (January 5, 2011) <<http://lawlibrary.rutgers.edu/new-jersey-administrative-decisions-0>> (citations omitted). (ID at 2.)

DISCUSSION AND FINDINGS

After review and consideration of the entire record, the Board **HEREBY FINDS** that the findings and conclusions of the ALJ are reasonable. Petitioner did not file an amended petition by the initial deadline of February 16, 2021, and failed to respond to the ALJ’s letter of May 10, 2021. Thus the Board **FINDS** that the ALJ properly dismissed the instant petition relying on *Henderson v. Jersey Central Power and Light Company*, Dkt. No. PUC 2470-10, Initial Decision (January 5, 2011), which held that a petitioner’s failure to prosecute a matter should result in its dismissal. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision in its entirety. The Board **ORDERS** that the Petition of Tenny Journal Communications, Inc. be **HEREBY DISMISSED WITH PREJUDICE.**

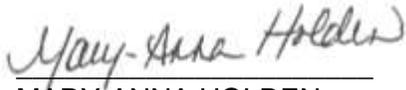
The effective date of this Order is June 24, 2021

DATED: June 24, 2021

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

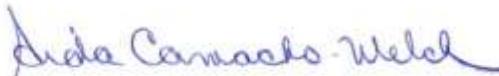


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

TENNY JOURNAL COMMUNICATIONS, INC., PETITIONER

V.

VERIZON NEW JERSEY, INC., RESPONDENT

**BPU DOCKET NO. TC19050576
OAL DOCKET NO. PUC 07829-20**

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. PUC 07829-20

AGENCY DKT. NO. TC19050576

**TENNY JOURNAL
COMMUNICATIONS, INC.,**

Petitioner,

v.

VERIZON NEW JERSEY, INC.,

Respondent.

John Cory, President, for petitioner, Tenny Journal Communications, Inc.

Richard Fipphen, Assistant General Counsel, for respondent, Verizon New Jersey, Inc.

Meliha Arnautovic and **Terel Klein**, Deputy Attorneys General, for Staff of the Board of Public Utilities (Gurbir S. Grewal, Attorney General, State of New Jersey, attorney)

Record Closed: May 20, 2021

Decided: June 7, 2021

BEFORE **TRICIA M. CALIGUIRE**, ALJ

On or about May 10, 2019, Tenny Journal Communications, Inc. (Tenny Journal) filed a petition with the Board of Public Utilities requesting an order directing respondent Verizon New Jersey, Inc. (Verizon), to restore service to certain discontinued telephones, and preventing

future removal of copper lines to pay telephones in geographic areas where Verizon has yet to install fiber replacement lines. Verizon filed its answer to the petition on July 12, 2019. Following additional filings, the parties met with Board staff, but resolution of disputed issues was not achieved. This matter was transmitted to the Office of Administrative Law (OAL), where it was filed on August 19, 2020, as a contested case pursuant to N.J.S.A. 52:154B-1 et seq. and N.J.S.A. 52:14F-1 et seq.

On December 21, 2020, a telephone prehearing conference was held, during which Verizon stated its intention to file a motion to dismiss on or before January 29, 2021. By letter dated December 21, 2020, and received at the OAL on January 5, 2021, Tenny Journal requested leave to amend its petition. By letter dated January 15, 2021, Verizon stated that it had no objections to the motion and requested additional time following receipt of the amended petition to file its motion to dismiss. An order was issued on January 26, 2021, granting Tenny Journal's motion to amend its petition as follows:

[T]he amended petition of Tenny Journal Communications shall include the additional request for relief described in the January 5, 2021 motion, and shall remove claims, factual allegations, and/or request(s) for relief which are no longer in dispute and should not therefore be addressed in this forum. Such amendment shall be filed on or before **February 16, 2021**.

Tenny Journal failed to file its amended petition by the February 16, 2021 deadline, did not request an extension of the deadline, and provided no explanation for its failure to meet the deadline. By letter dated May 10, 2021, Tenny Journal was directed to file its amended petition within ten days and notified that failure to comply with this order would result in the return of this matter to the Board for further disposition.

To date, Tenny Journal has not filed its amended petition nor contacted the OAL to offer any explanation for its failure to do so. Absent exigent circumstances, a petitioner's failure to prosecute a matter should result in its dismissal. Henderson v. Jersey Central Power and Light Company, Dkt. No. PUC 2470-10, Initial Decision (January 5, 2011) <<http://lawlibrary.rutgers.edu/new-jersey-administrative-decisions-0>> (citations omitted).

Here, neither exigent circumstances nor, for that matter, any explanation whatsoever, has been offered to excuse petitioner's failure to prosecute this matter.

DECISION AND ORDER

Accordingly, I **CONCLUDE** that petitioner has failed to prosecute its appeal and no longer requests relief in this matter. Therefore, I **ORDER** that this case be and is hereby **DISMISSED WITH PREJUDICE**.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

June 7, 2021
DATE


TRICIA M. CALIGUIRE, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

TMC/nd