



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
P.O. BOX 3265, HARRISBURG, PA 17105-3265

October 5, 2016

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Pennsylvania Public Utility Commission, Bureau of Investigation  
and Enforcement v. NMG Telecom LLC  
Docket No. C-2016-2539611

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Bureau of Investigation and Enforcement's Motion for Default Judgment in the above-referenced proceeding. Copies have been served on the parties of record in accordance with the Certificate of Service.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Kourtney L. Myers  
Prosecutor  
PA Attorney ID No. 316494

Prosecutor for the Bureau of  
Investigation and Enforcement

Enclosures

cc: As per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement,  
Complainant

v.

NMG Telecom LLC,  
Respondent

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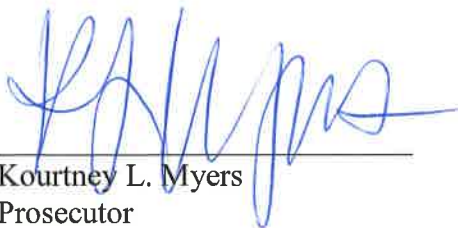
Docket No. C-2016-2539611

**NOTICE TO PLEAD**

The Bureau of Investigation and Enforcement (I&E) of the Pennsylvania Public Utility Commission (Commission) has filed a Motion for Default Judgment in the above-captioned matter, pursuant to the Commission's regulations at 52 Pa. Code § 5.103. You are hereby notified to file a written response within twenty (20) days of the service of the Motion, consistent with 52 Pa. Code § 5.61.

Your Answer must be verified, pursuant to 52 Pa. Code § 1.36, and the original sent to:  
Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Additionally, you must serve a copy on the undersigned prosecutor.



Kourtney L. Myers  
Prosecutor  
PA Attorney ID No. 316494

Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 705-4366  
komyers@pa.gov

Dated: October 5, 2016

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement,	:	
Complainant	:	
	:	
v.	:	Docket No. C-2016-2539611
	:	
NMG Telecom LLC,	:	
Respondent	:	

**MOTION FOR DEFAULT JUDGMENT**

NOW COMES the Pennsylvania Public Utility Commission’s (Commission) Bureau of Investigation and Enforcement (I&E), by its prosecuting attorneys, and files this Motion for Default Judgment against NMG Telecom LLC (Respondent) pursuant to Section 5.103 of the Commission’s regulations, 52 Pa. Code § 5.103. In support thereof, I&E respectfully represents as follows:

1. I&E commenced this action on April 13, 2016 by filing a Complaint.
2. On April 13, 2016, the Complaint was served by certified mail to Respondent at 2520 Avenue L, Brooklyn, NY 11210.
3. This is the last known mailing address that Respondent provided to the Commission.
4. On May 9, 2016, the Complaint was returned to the Commission by the United States Post Office and was marked as “Return to Sender; Unclaimed; Unable to Forward.”
5. On May 25, 2016, the Complaint was again served to Respondent by First Class Mail at 2520 Avenue L, Brooklyn, NY 11210.
6. There is no record that the Complaint served by first class mail was returned to the Commission.

7. Depositing a properly addressed, prepaid letter in the mail raises a presumption that it reached its destination and mailing a letter in such a way is *prima facie* evidence that it was received by the person to whom it was addressed. See *Cameron Estate*, 130 A.2d 173 (Pa. 1957); *Meierdierck v. Miller*, 147 A.2d 406 (Pa. 1959); and *Samaras v. Hartwick*, 698 A.2d 71 (Pa. Super. 1997).

8. Even though the Complaint is presumed to have been delivered, out of an abundance of caution, I&E published the Complaint in the *Pennsylvania Bulletin* on August 6, 2016 pursuant to the Commission's regulation at 52 Pa. Code § 1.53(e). See 46 Pa. Bull. 4910 (August 6, 2016).

9. Included with the Complaint was a Notice advising Respondent that it must file an Answer within twenty (20) days.

10. The Notice also advised Respondent that if it failed to answer the Complaint, I&E would request that the Commission issue an Order imposing the penalty set forth in the Complaint.

11. Respondent did not file an Answer to the Complaint.

12. Pursuant to Section 5.61(c) of the Commission's regulations, a Respondent who fails to file an Answer to a Complaint within the 20-day response period may be deemed in default, and the relevant facts stated in the Complaint may be deemed admitted. 52 Pa. Code § 5.61(c).

13. The Commonwealth Court has upheld the Commission's authority to sustain complaints that are not answered within twenty days. See *Fusaro v. Pa. PUC*, 382 A.2d 794, 797 (Pa. Cmwlth. 1978).

14. Respondent did not pay the civil penalty of \$2,000 that was sought in the Complaint for Respondent's failure to file an assessment report demonstrating revenues earned during the 2013 and 2014 calendar years.

15. I&E respectfully requests that the Commission enter a Default Order against Respondent that:

- a. Directs Respondent to pay the requested civil penalty of \$2,000 within thirty (30) days of the entry date of the Commission's Order;
- b. Directs the Bureau of Technical Utility Services to cancel Respondent's Certificates of Public Convenience at A-2012-2339773 and A-2012-2339775 if the civil penalty set forth in

subparagraph (a) is not paid within thirty (30) days of the entry date of the Commission's Order; and

- c. Directs the Bureau of Administrative Services, Assessment Section, to refer the matter to the Pennsylvania Office of Attorney General for collection of the civil penalty set forth in subparagraph (a), if the civil penalty is not paid within thirty (30) days of the entry date of the Commission's Order.

Respectfully submitted,



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Kourtney L. Myers

Prosecutor

PA Attorney ID No. 316494

Pennsylvania Public Utility Commission  
Bureau of Investigation and Enforcement  
P.O. Box 3265  
Harrisburg, PA 17105-3265  
(717) 705-4366  
[komyers@pa.gov](mailto:komyers@pa.gov)

Date: October 5, 2016

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,  
Bureau of Investigation and Enforcement,  
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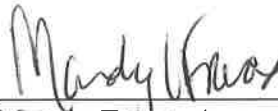
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Docket No. C-2016-2539611

**VERIFICATION**

I, Mandy Freas, Accountant, Bureau of Administrative Services, Assessment Section, hereby state that the facts above set forth are true and correct to the best of my knowledge, information, and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: October 5, 2016



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Mandy Freas, Accountant  
Assessment Section  
Bureau of Administrative Services  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

