

MSG SPINCO, INC.
Form S-8
September 29, 2015

As filed with the Securities and Exchange Commission on September 29, 2015

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-8

Registration Statement

Under

The Securities Act of 1933

MSG SPINCO, INC.*

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

Two Pennsylvania Plaza

47-3373056
(I.R.S. employer
identification no.)

New York, New York 10121

(Address of principal executive offices, including zip code)

2015 Employee Stock Plan

2015 Stock Plan for Non-Employee Directors

(Full title of each plan)

Lawrence J. Burian

Executive Vice President, General Counsel and Secretary

Two Pennsylvania Plaza

New York, New York 10121

(Name and address of agent for service)

(212) 465-6000

(Telephone number, including area code, of agent for service)

With a copy to:

John Mead, Esq.

Sullivan & Cromwell LLP

125 Broad Street

New York, New York 10004

(212) 558-4000

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of large accelerated filer, accelerated filer and smaller reporting company in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐

Accelerated filer ☐

☐

Non-accelerated filer ☒ (Do not check if a smaller reporting company)

Smaller reporting company ☐

Calculation of Registration Fee

| Title of Securities to be Registered | Amount to be Registered | Proposed Maximum Offering Price Per Share | Proposed Maximum Aggregate Offering Price | Amount of Registration Fee |
|--|--|--|--|---------------------------------------|
| MSG Spinco, Inc. Class A Common Stock, par value \$.01 per share | 2,810,333(2) | \$150.14(1) | \$421,943,397(1) | \$49,030(1) |

- (1) Estimated on the basis of \$150.14 per share, the average of the high and low sales prices of MSG Spinco, Inc. Class A Common Stock in the when issued trading market as reported on the New York Stock Exchange on September 28, 2015 pursuant to Rule 457(c) and (h) of the Securities Act of 1933. Of the Common Stock to be registered, an aggregate of 2,650,333 shares are issuable under the 2015 Employee Stock Plan and 160,000 are issuable under the 2015 Stock Plan for Non-Employee Directors.
- (2) Pursuant to Rule 416 of the Securities Act of 1933, this Registration Statement shall also cover any additional shares of Common Stock which become issuable under the Plan pursuant to this Registration Statement by reason of any stock dividend, stock split, recapitalization or any other similar transaction which results in an increase in the number of the Registrant's outstanding shares of Common Stock.

* The registrant is currently named MSG Spinco, Inc. The registrant plans to change its name following the effective date of this registration statement to The Madison Square Garden Company.

PART I

INFORMATION REQUIRED IN THE SECTION 10(A) PROSPECTUS

All information required by Part I to be contained in the prospectus is omitted from this registration statement in accordance with Rule 428 under the Securities Act of 1933, as amended (the Securities Act).

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

ITEM 3. INCORPORATION OF DOCUMENTS BY REFERENCE.

The following documents filed by the Registrant are incorporated herein by reference:

- (a) The Registrant's Registration Statement on Form 10-12B (File No. 001-36900) filed on March 27, 2015, as amended, including the description of the Registrant's Common Stock contained therein, and any amendment or report filed for the purpose of updating such description.

All documents subsequently filed by the Registrant pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Securities Exchange Act of 1934, prior to the filing of a post-effective amendment which indicates that all securities offered hereby have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference herein to be a part hereof from the date of filing of such documents.

ITEM 4. DESCRIPTION OF SECURITIES.

Not applicable.

ITEM 5. INTERESTS OF NAMED EXPERTS AND COUNSEL.

Not applicable.

ITEM 6. INDEMNIFICATION OF DIRECTORS AND OFFICERS.

Section 145 of the Delaware General Corporation Law provides that a corporation may indemnify any current or former director, officer or employee or other individual against expenses, judgments, fines and amounts paid in settlement in connection with civil, criminal, administrative or investigative actions or proceedings, other than a derivative action by or in the right of the corporation, if the director, officer, employee or other individual acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, if he or she had no reasonable cause to believe his or her conduct was unlawful. A similar standard is applicable in the case of derivative actions, except that indemnification only extends to expenses incurred in connection with the defense or settlement of such actions, and the statute requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation's by-laws, disinterested director vote, stockholder vote, agreement or otherwise.

The Registrant's certificate of incorporation will provide that each person who was or is made or is threatened to be made a party to any action or proceeding by reason of the fact that such person, or a person of whom such person is the legal representative, is or was a director or officer of the Registrant or is or was serving at the Registrant's request as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, will be indemnified and held harmless by the Registrant to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended. Such rights are not exclusive of any other right which any person may have or thereafter acquire under any statute, provision of the certificate of incorporation, by-law, agreement, vote of stockholders or disinterested directors or otherwise. The Registrant's certificate of incorporation will also specifically authorize the Registrant to maintain insurance and to grant similar indemnification rights to its employees or agents.

The Registrant expects to enter into indemnification agreements with each of its directors and executive officers. The indemnification agreements will provide that the Registrant will, to the fullest extent permitted by Delaware law, and subject to the terms and conditions of each indemnification agreement, indemnify each director and executive officer against certain types of liabilities and pay or reimburse certain expenses if the director or executive officer is involved in any manner (including as a party or witness) in certain types of proceedings by reason of the fact of such person's service as a director, officer, partner, trustee, fiduciary, manager or employee of the Registrant or of any other corporation, limited liability company, public limited company, partnership, joint venture, trust, employee benefit plan, fund or other enterprise (a) that is affiliated with the Registrant or (b) at the written request of the Board of Directors of the Registrant, a committee thereof, the Executive Chairman or the Chief Executive Officer of the Registrant.

A Distribution Agreement between the Registrant and The Madison Square Garden Company, to be renamed MSG Networks Inc. (MSGN), provides for indemnification by the Registrant of MSGN and its directors, officers and employees and by MSGN of the Registrant and its directors, officers and employees for some liabilities, including liabilities under the Securities Act of 1933 and the Securities Exchange Act of 1934. The amount of these indemnity obligations is unlimited.

ITEM 7. EXEMPTION FROM REGISTRATION CLAIMED.

Not applicable.

ITEM 8. EXHIBITS.

The exhibits filed herewith or incorporated by reference herein are set forth in the Exhibit Index filed as part of this Registration Statement.

ITEM 9. UNDERTAKINGS

The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

PROVIDED, HOWEVER, that paragraphs (i) and (ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the Registrant pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

The undersigned Registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (and, where applicable, each filing of the Plan's annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be

governed by the final adjudication of such issue.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing this Registration Statement and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in New York, New York, on this 29th day of September, 2015.

MSG SPINCO, INC.

By: /s/ Lawrence J. Burian
 Name: Lawrence J. Burian
 Title: Executive Vice President, General
 Counsel and Secretary

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the date indicated. Each person whose signature appears below hereby authorizes David O Connor and Lawrence J. Burian to file one or more amendments, including Post-Effective Amendments, to this Registration Statement, which Amendments may make such changes as any of them deems appropriate, and each person whose signature appears below, individually and in each capacity stated below, hereby appoints David O Connor and Lawrence J. Burian as Attorney-in-Fact to execute his or her name and on his or her behalf to file any such Amendments to this Registration Statement.

| Signature | Title | Date |
|--|---|--------------------|
| /s/ James L. Dolan James L. Dolan | Executive Chairman and Director | September 29, 2015 |
| /s/ David O Connor David O Connor | Chief Executive Officer | September 29, 2015 |
| /s/ Donna Coleman Donna Coleman | Interim Chief Financial Officer | September 29, 2015 |
| /s/ Joseph F. Yospe Joseph F. Yospe | Senior Vice President, Controller and Principal Accounting Officer | September 29, 2015 |
| /s/ Vincent Tese Vincent Tese | Director | September 29, 2015 |

INDEX TO EXHIBITS

| Exhibit Number | Exhibit |
|---------------------------|--|
| 4.1 | Registrant's Form of Amended and Restated Certificate of Incorporation (incorporated herein by reference to Exhibit 3.2 to Registrant's Registration Statement on Form 10-12B/A (file No. 001-36900) filed on July 24, 2015) |
| 4.2 | Registrant's Form of Amended By-Laws (incorporated herein by reference to Exhibit 3.4 to Registrant's Registration Statement on Form 10-12B/A (file No. 001-36900) filed on July 24, 2015) |
| 4.3 | 2015 Employee Stock Plan (incorporated herein by reference to Exhibit 10.4 to the Registrant's Registration Statement on Form 10-12B/A (File No. 001-36900) filed on September 11, 2015) |
| 4.4 | 2015 Stock Plan for Non-Employee Directors (incorporated herein by reference to Exhibit 10.6 to the Registrant's Registration Statement on Form 10-12B/A (File No. 001-36900) filed on September 11, 2015) |
| 5 | Opinion of Lawrence J. Burian |
| 23.1 | Consent of KPMG LLP |
| 23.2 | Consent of Lawrence J. Burian (contained in the Opinion filed as Exhibit 5) |
| 24 | Power of Attorney (set forth on the signature page) |