

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

|  |   |                            |
|--|---|----------------------------|
| <b>IN THE MATTER OF THE APPLICATION OF</b>       | ) |                            |
| <b>NEXTGEN COMMUNICATIONS, INC. FOR A</b>        | ) |                            |
| <b>CERTIFICATE OF AUTHORITY TO PROVIDE LOCAL</b> | ) | <b>Docket No. TC15-062</b> |
| <b>EXCHANGE AND INTEREXCHANGE SERVICE</b>        | ) |                            |
| <b>IN THE STATE OF SOUTH DAKOTA</b>              | ) |                            |

**JOINT STIPULATION**

The South Dakota Telecommunications Association ("SDTA") and NextGen Communications, Inc. ("NextGen") (collectively, the "Parties"), through their respective counsel, hereby submit this Joint Stipulation as a resolution of issues viewed as most pertinent to this Commission's review of the Application for a Certificate of Authority filed by NextGen on August 17, 2015, seeking authority to provide local exchange and interexchange services in the State of South Dakota. Specifically, through execution of this document, each of the Parties agrees to the following terms:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating as "rural telephone companies" in defined rural service areas or rural "study areas" throughout the State of South Dakota.

2. NextGen is a corporation incorporated under the laws of Maryland and is a wholly-owned subsidiary of TeleCommunication Systems, Inc. ("TCS"). Specifically, NextGen seeks certification from this Commission so that it may provide "VoIP Positioning Center" and "Mobile Positioning Center" services in South Dakota "which involve the aggregation and transport of emergency local, VoIP, telemetric, PBX, and mobile E9-1-1 traffic, the management and transmission of location and calling number data, Next Generation 9-1-1 Core Services and ESInet Services, and the provision of call routing

management for the delivery of emergency calls to Public Service Answering Points (PSAPs) throughout South Dakota.” (Application page 3, par. (8)).

3. In general, SDTA does not oppose the granting of the Certificate of Authority requested by NextGen in this Docket provided that the Commission makes the necessary findings to justify granting the Certificate and provided that any final order issued by the Commission is consistent with and recognizes the terms set forth herein.

4. NextGen notes in its Application that it proposes to serve the entire State of South Dakota and thus seeks a statewide certification from this Commission. In regards to the geographic scope of any certificate granted to NextGen in this proceeding, SDTA does not oppose a certification extending to all areas of the State, provided that the certification is appropriately limited to cover only those specific telecommunications services that are necessary for NextGen to aggregate and transport emergency 911 calls and/or 911 related calling data. NextGen agrees that its certification should be so limited and affirms that it does not intend to provide in South Dakota any retail “telephone exchange services” to either residential or business end user customers or to provide any wholesale “exchange access services” to other carriers or service providers (as such terms are defined under 47 U.S.C. § 153). NextGen also agrees that if at any time in the future it chooses to provide these additional services within any rural telephone company service area in South Dakota, it will come back before the Commission with an amended application seeking additional local exchange service authority. This further proceeding would give the Commission the ability to consider and determine whether or not it should apply the rural safeguard protections provided by 47 U.S.C. § 253(f) and SDCL § 49-31-73 within any rural telephone company service area affected by the amended application.

5. NextGen has indicated that, in part, it seeks competitive local exchange carrier status in South Dakota so that it may access North American Numbering Plan resources, specifically, non-dialable numbers that pass number checks (“pseudo Automatic Number Identifiers” or “pANIs”) that can be associated with the specific calling area that each South Dakota PSAP serves or presides over. The pANIs are used by NextGen to successfully transmit wireless and VoIP calls through its “Selective Routers” (“SRs”). The SRs perform the function of screening incoming 911 calls, making sure that the number being presented is one for which the local PSAP authority can retrieve a location for the caller. In regards to any numbering resources obtained by NextGen for future use in South Dakota, NextGen agrees that the use of such numbers will be restricted in accord with the provisions of paragraph 4 herein -- that they will not be used to provide in South Dakota any retail local exchange services to either residential or business end user customers or to provide any wholesale exchange access services to other carriers or service providers.

6. NextGen indicates in its Application that the provisioning of its 911 emergency services may require that it request interconnection services of certain incumbent local exchange carriers in South Dakota. Related to any future possible interconnection request, NextGen agrees that any statewide certification issued by the Commission in this proceeding will not affect any of the rural telephone company exemptions, suspensions, and modifications provided for under 47 U.S.C. § 251(f).

7. NextGen has indicated to SDTA that it “does not provide for the origination of the 911 call,” indicating that it does not believe that it has any responsibility for the transport of 911 traffic until it reaches its centralized point of interconnection (POI) in South Dakota. SDTA does not agree with this stated assessment or position. NextGen’s centralized POI will in many cases be far removed from existing rural carrier service areas and, relative to

911 traffic origination, 911 traffic exchange arrangements have historically recognized the local character of 911 calls and the more limited geographic presence of rural telephone companies -- 911 originated calls destined to centralized POI(s) of the statewide 911 services provider have generally been picked up at or near rural telephone company service areas, at long established "meet points." The Parties agree that any certification(s) issued by the Commission in this proceeding granting any local exchange service or interexchange service authority to NextGen will not address this unresolved issue, and shall not affect or constitute any precedent relative to this, as of yet, unresolved transport obligations issue relating to the carriage of originated 911 traffic. In addition, neither this Stipulation nor any final Commission Order issued in this Docket shall preclude either SDTA, its member companies, or NextGen from later initiating a separate proceeding or proceedings with this Commission for a resolution of and to obtain compensatory relief that may be due related to this unresolved transport obligations issue.

8. Finally, the parties agree that under the FCC's new 911 Reliability Certification Rules codified at 47 CFR Section 12.4, NextGen will be responsible for the required certification of all covered 911 services it provides directly to PSAPs (pursuant to contract or tariff) over leased facilities from SDTA member rural telephone companies. The FCC rules provide that the circuit auditing obligation applies to the Covered 911 Service Provider, and not to the facilities lessor. Only the company with a direct relationship to the PSAP is responsible for certification, which will be NextGen.

9. With the submission of this Joint Stipulation, the Parties request that the Commission approve the requested certification(s), subject to the agreed upon limitations set forth herein.

IN WITNESS WHEREOF, the undersigned have caused this Joint Stipulation to be  
duly executed as of the date hereof.

South Dakota Telecommunications Association

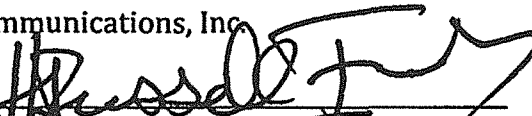
Signature: 

Name: Richard D. Coit

Title: Executive Director and General Counsel

Date: Dec. 17, 2015

NextGen Communications, Inc.

Signature: 

Name: H. Russell Frish, Jr.

Title: Attorney

Date: 12/17/15