

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

**IN THE MATTER OF THE APPLICATION OF)
NGA 911, L.L.C. FOR A CERTIFICATE OF AUTHORITY)
TO PROVIDE LOCAL EXCHANGE AND) Docket No. TC19-003
INTEREXCHANGE LONG DISTANCE SERVICES)
IN SOUTH DAKOTA)**

SDTA Petition to Intervene

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. On or about February 14, 2019, NGA 911, L.L.C. (hereinafter referenced as "NGA 911" or "Applicant") filed an application with the Commission pursuant to ARSD §§ 20:10:32:03 and 20:10:24:02 seeking a certificate of authority "to provide facilities-based and resold local exchange and interexchange telecommunications services throughout the State of South Dakota."

3. In its Application, NGA 911 makes the following statements regarding its plans to provide telecommunications services in South Dakota:

Applicant seeks authority to provide facilities-based and resold local exchange and interexchange telecommunications services in order to provide emergency call routing, transport, and related functionalities to state and municipal governmental agencies to support public service answering point ("PSAP") operations. (Par. 8(d)).

NGA 911 intends to offer its services through the use of a combination of its own facilities and facilities to be leased (such as through unbundled

network elements) from a variety of telecommunications carriers, and also seeks authority to provide service for resale. NGA 911 will use existing network infrastructure, includ[ing] fiber optic lines, poles, conduits, ducts and other access methods, where appropriate to provide its services. Applicant does not have plans to deploy specific facilities in South Dakota at this time. (Par. 8(b)).

Applicant proposes to complete an interconnection agreement (or similar arrangements) to provide connectivity and interconnection between Applicant's NG 9-1-1 system with incumbent local exchange carriers, including AT&T and CenturyLink, rural local exchange carriers, competitive local exchange carriers, wireless carriers and other service providers such as VoIP providers necessary to provide the services under the RFP. (Par. 13(a)).

Applicant will provide only non-switched services and will not provide traditional switched local exchange service to retail end users. Applicant also does not intend to provide service to residential or business customers in the service area of any rural telephone company. . . . If Applicant chooses to provide telephone exchange services or switched access services within any area served by a rural telephone company, Applicant will seek permission from the Commission in another proceeding (Par. 15).

Applicant seeks authority to provide its services throughout the state of South Dakota. (Par. 9).

4. All of the SDTA member companies operate as "rural telephone companies" for purposes of the Federal Telecommunications Act of 1996 and also the state laws enacted in 1998 addressing local exchange competition (SDCL § 49-31-69, et. seq.). Given that the Application for authorization to provide local exchange and interexchange telecommunications services filed by NGA 911 covers the entire State of South Dakota, all of the SDTA member local exchange carriers (LECs) have an interest in and stand to be impacted by this proceeding. SDTA seeks intervention herein based on the individual interests of each of its member ILECs and based on their common interests to ensure that the provisions contained in federal and state laws pertinent to the provisioning of any local exchange services in rural telephone company service areas, specifically, are properly considered and applied.

5. NGA 911 makes it clear by its Application that it is not a typical provider of local exchange services, noting that it “will not provide traditional switched local exchange services.” SDTA interprets this and related statements in NGA 911’s Application to mean that the company has no current plans to provide retail voice toll services or local exchange voice dial tone services to residential or business customers or to provide any exchange access services in South Dakota that are unnecessary to the provisioning of its 9-1-1 emergency services. Given the fact that NGA 911’s services in South Dakota will be limited to providing 9-1-1 emergency services to PSAP entities and given the company’s request for a waiver of the local exchange service obligations imposed under ARSD § 20:10:32:10, it is SDTA’s position that any COA issued by the Commission in this proceeding should be correspondingly limited. NGA 911 should receive authorization for only those telecommunications services necessary for it to provide its described emergency 9-1-1 services. Its Application, as filed, does not warrant the granting of a broad certificate of authority covering all local exchange telecommunications services throughout all areas of the State.

6. Further, because emergency 9-1-1 services are regulated telecommunications services and, by law, are considered an essential component of “local exchange” or “telephone exchange services,” SDTA believes the additional service obligations imposed on competitive local exchange carriers entering rural service areas (found in SDCL § 49-31-73 and ARSD §§ 20:10:32:15 thru 20:10:32:17) should be viewed as applicable and should be addressed through the established waiver process.¹ NGA 911’s Application at this time does not include a request for a waiver of these rural safeguard provisions, as is permitted under ARSD § 20:10:32:18.

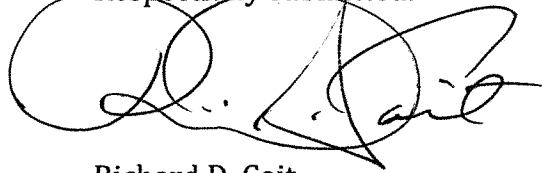
¹ See 47 U.S.C. §§ 153(32) and 153(54).

7. In addition, because NGA 911 is seeking a statewide certificate of authority for its 9-1-1 related local exchange services, the provisions of SDCL § 49-31-70 and ARSD 20:10:32:04 are applicable and require that notice of the Application be provided to other, already certified local exchange carriers. SDTA has reason to believe that NGA 911 has not yet complied with these provisions.

8. Based on the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status.

Dated this 7th day of March, 2019.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Richard D. Coit", written over a horizontal line.

Richard D. Coit
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CERTIFICATE OF SERVICE

I hereby certify that an original of the Petition for Intervention, dated March 7, 2019, filed in PUC Docket TC19-003 was served upon the PUC electronically, directed to the attention of:

Ms. Patty Van Gerpen, Executive Director
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A copy was also sent by e-mail and/or US Postal Service First Class mail to each of the following individuals:

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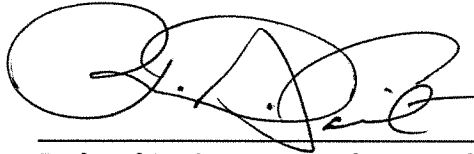
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Dated this ~~24~~ day of March, 2019



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