

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

**IN THE MATTER OF THE APPLICATION OF)
NEXTGEN COMMUNICATIONS, INC. FOR A)
CERTIFICATE OF AUTHORITY TO PROVIDE LOCAL) Docket No. TC15-062
EXCHANGE AND INTEREXCHANGE SERVICE)
IN THE STATE OF 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 August 17, 2015 NextGen Communications, Inc. (hereinafter referenced as "NextGen") filed an application with the Commission pursuant to ARSD § 20:10:32:03 seeking a certificate of authority to provide local exchange and interexchange telecommunications services.

3. In its Application, NextGen describes itself as a company providing "VoIP Positioning Center (VPC) and "Mobile Positioning Center" (MPC) services. The company operates as a wholly-owned subsidiary of TeleCommunication Systems, Inc. (TCS). More specifically in regards to the services to be provided, the Application states that:

"NextGen seeks certification so that it may provide VPC and MPC 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, and the provision of call routing management for the delivery of emergency calls to Public Service Answering Points (PSAPs) throughout South Dakota. NextGen's services are

used by PSAPs as well as large wireless carriers, VoIP providers, cable TV system operators who provide telecommunications services and/or VoIP, telemetric operators, PBX users, and mobile voice service providers. NextGen does not currently provide long distance voice toll services or local exchange voice dial tone services to residential or business customers. However, in order to aggregate and transport emergency calls and/or calling data, NextGen may require the same sort of interconnection and co-location made available to certificated Competitive Local Exchange Carriers ("CLEC").

4. The above services description leads to questions as to how NextGen will provision its emergency 911 related services throughout all areas of South Dakota and what specific "local exchange services" will be offered. In SDTA's view the 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.

5. 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 § 39-31-69, et. seq.). Given that the Application filed by NextGen purports to cover 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 rural safeguard provisions contained in federal and state laws are properly considered and applied.

6. With respect to the NextGen Application, SDTA has the following specific concerns:

First, because the Application requests statewide authority, 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. NextGen has not in its' Application indicated that it has complied with this requirement;

Secondly, various statements contained in the Application suggest that the request for “local exchange” service certification throughout all areas of the State, including all rural telephone company service areas, may be premature. On page 5 of the Application, NextGen indicates that it plans to interconnect with the following local exchange carriers: “AT&T; CenturyLink, ComNet, Golden West, SDN, Sprint, Swiftel, Verizon, Windstream and WOW.” This list does not include all SDTA member company rural local exchange carriers.

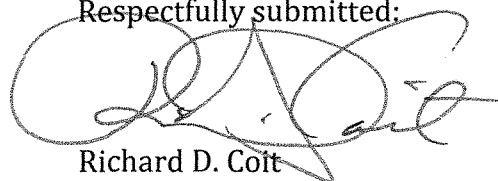
Also, NextGen makes it clear by its Application that it is not a typical provider of local exchange services, it “does not currently provide long distance voice toll services or local exchange voice dial tone services to residential or business customers.” (Application, paragraphs 14 and 15). NextGen with its Application is also seeking a waiver of the requirements in ARSD 20:10:32:10, stating that its proposed service “does not involve providing customers with access to operator services, interexchange services, directory assistance . . .” Again, these statements raise questions concerning what specific local exchange services will be offered by the company, what service authorizations are necessary for it to provide its emergency 911 related services, and also what specific terms and conditions, if any, should attach to any certificate of authority that is issued.

7. Without further information clarifying the type of services to be provided and where, in fact, those services will be provided, 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) must be viewed as applicable and must be addressed. The 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. Under these provisions, NextGen, before being granted a COA and a waiver of the additional ETC service obligations imposed in South Dakota’s rural service areas would have to prove that granting such a waiver would “not adversely impact universal service,” would not impair the “quality of service” and that it would otherwise be consistent with the “public interest.”

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

Dated this 1st day of September, 2015.

Respectfully submitted;

A handwritten signature in black ink, appearing to read "Richard D. Coit", written over a large, stylized circular flourish.

Richard D. Coit
Executive Director and General Counsel
SDTA
320 East Capitol Ave.
P.O. Box 57
Pierre, SD 57501