

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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AT RICHMOND, JUNE 16, 2004

APPLICATION OF

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NEXTG NETWORKS ATLANTIC, INC.

CASE NO. PUC-2004-00009

For certificates of public
convenience and necessity to
provide local exchange and
interexchange telecommunications
services

FINAL ORDER

On February 4, 2004, NextG Networks Atlantic, Inc. ("NextG" or "Company"), completed an application for certificates of public convenience and necessity with the State Corporation Commission ("Commission") to provide local exchange and interexchange telecommunications services throughout the Commonwealth of Virginia. The Company also requested authority to price its interexchange telecommunications services on a competitive basis pursuant to § 56-481.1 of the Code of Virginia.

By Order for Notice and Comment dated March 3, 2004, the Commission directed the Company to provide notice to the public of its application and directed the Commission Staff to conduct an investigation and file a Staff Report. On April 14, 2004, the Company filed proof of publication and proof of service as required by the Commission's Order of March 3, 2004.

On April 5, 2004, NextG, by counsel, filed a letter requesting additional time to file its performance or surety bond as required by 20 VAC 5-417-20 G of the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers ("CLEC Rules"). By Order dated April 23, 2004, the Commission granted NextG's request and ordered that the Company file a performance bond or surety bond in the amount of \$50,000 on or before May 20, 2004.

As required by Ordering Paragraph (7) of the Commission's March 3, 2004, Order, the Staff investigated NextG's application to determine compliance with the Commission's CLEC Rules and Rules Governing the Certification of Interexchange Carriers (IXC Rules) 20 VAC 5-411-10 et seq. The Staff's investigation found that the Company will initially be providing radiofrequency transport and backhaul service to commercial mobile radio service ("CMRS") providers throughout the Commonwealth of Virginia. Voice services will be provided sometime in the future.

Based upon its review, the Staff found that NextG's application currently meets all the requirements imposed by the Commission except Rules 20 VAC 5-417-20 and 20 VAC 5-417-30 of the CLEC Rules. Rule 20 VAC 5-417-20 G requires new entrants to file a \$50,000 performance or surety bond to demonstrate its financial ability to render local exchange telecommunications services. NextG requested that the Commission waive the bond requirement and accept a \$50,000 letter of credit drawn on the Silicon Valley Bank as evidence of its financial ability to provide service. While Rule 20 VAC 5-417-20 G requires that a performance or surety bond be filed by new entrants, the Staff Report found that NextG substantially complied with the intent of the CLEC Rules and therefore recommended that its letter of credit be accepted as appropriate surety in lieu of a performance or surety bond.

Rule 20 VAC 5-417-30 of the CLEC Rules further requires new entrants to provide access to 911 and E911 services; white page directory listings; access to telephone relay services; access to directory assistance; and numerous other services when a new entrant begins to provide local exchange telecommunications services. The Staff Report noted that NextG will not provide these services immediately upon issuance of a local exchange certificate. NextG plans to limit its services to the provision of radiofrequency transport and backhaul service to CMRS providers

for the immediate future and will not, at least initially, be providing voice services. However, the Company has committed to comply with Rule 20 VAC 5-417-30 of the CLEC Rules when it expands its service and begins offering voice services.

The Staff Report concluded by recommending that NextG be granted certificates to provide local exchange and interexchange telecommunications services subject to the following conditions:

- (1) NextG should notify the Division of Economics and Finance no less than thirty (30) days prior to the cancellation or lapse of its letter of credit and should provide a replacement bond or letter of credit at that time. This requirement should be maintained until such time as the Staff or the Commission determines it is no longer necessary; and
- (2) At such time as voice services are initiated by NextG, the Company should comply with all the requirements of 20 VAC 5-417-30 of the CLEC Rules.

NOW THE COMMISSION, having considered the application and the Staff Report, finds that the Company should be granted certificates to provide local exchange and interexchange telecommunications services. Having considered § 56-481.1, the Commission further finds that the Company may price its interexchange telecommunications services competitively.

Accordingly, IT IS ORDERED THAT:

(1) NextG is hereby granted a certificate of public convenience and necessity, No. TT-204A, to provide interexchange telecommunications services subject to the restrictions set forth in the Commission's Rules Governing the Certification of Interexchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(2) NextG is hereby granted a certificate of public convenience and necessity, No. T-627, to provide local exchange telecommunications services subject to the restrictions set

forth in the Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers, § 56-265.4:4 of the Code of Virginia, and the provisions of this Order.

(3) Pursuant to § 56-481.1 of the Code of Virginia, the Company may price its interexchange telecommunications services competitively.

(4) The Company shall provide tariffs to the Division of Communications that conform to all applicable Commission rules and regulations.

(5) The local exchange certificate issued pursuant to Ordering Paragraph (2) above shall be issued subject to the following conditions:

(i) The holder of this certificate shall notify the Division of Economics and Finance no less than thirty (30) days prior to the cancellation or lapse of its letter of credit and shall provide a replacement bond or letter of credit at that time. This requirement shall be maintained until such time as the Staff or the Commission determines it is no longer necessary; and

(ii) At such time as local exchange voice telecommunications services are initiated under this certificate the holder shall comply with all the requirements of 20 VAC 5-417-30 of the CLEC Rules.

(6) There being nothing further to come before the Commission, this case shall be dismissed and the papers filed herein placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

Julie Kaminski Corsig, Esquire, Davis Wright Tremaine LLP, Suite 450, 1500 K Street NW, Washington, D.C. 20005-1272; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; and the Commission's Divisions of Communications, Public Service Taxation, and Economics and Finance.

A True Copy
Teste:


Clerk of the
State Corporation Commission