

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
NEXTG NETWORKS OF NY, INC., D/B/A NEXTG)
NETWORKS EAST, FOR A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO PROVIDE LOCAL) PSC DOCKET NO. 07-42
EXCHANGE AND COMPETITIVE INTRASTATE TELE-)
COMMUNICATIONS SERVICES WITHIN THE STATE)
OF DELAWARE (FILED FEBRUARY 16, 2007))

FINDINGS AND ORDER NO. 7187

AND NOW, to-wit, this 22nd day of May, 2007, the Public Service Commission ("PSC" or the "Commission") makes the following findings, determination, and Order:

1. On February 16, 2007, NextG Networks of NY, Inc., d/b/a NextG Networks East ("NextG Networks" or "the Company"), filed with the Commission an application for a Certificate of Public Convenience and Necessity ("CPCN") to allow it to provide local exchange and competitive intrastate telecommunications services within Delaware. NextG Networks has also filed an illustrative tariff setting forth the terms and conditions for its proposed services; and

2. Public notice of the application, including a period for filing objections, was published in The News Journal newspaper on March 8, 2007 and in the Delaware State News newspaper on March 9, 2007. No comments nor objections to the application have been received. The Commission Staff reports that NextG Networks has shown that it has the financial, technical, and managerial capabilities as required for a certificate as set forth in the Commission's "Rules for the Provision of Telecommunications Services."¹

¹Adopted in PSC Order No. 5833 (eff. Dec. 10, 2001) and amended in PSC Order No. 6839 (eff. Mar. 11, 2006).

Along with the application, NextG Networks filed a surety bond in the amount of Fifty Thousand Dollars (\$50,000), with corporate surety licensed to do business in Delaware. A Fifty Thousand Dollar (\$50,000) surety bond is a requirement of Order No. 5833 in PSC Regulation Dockets Nos. 10 and 45.

3. NextG Networks has requested a waiver of the requirement to file an intraLATA toll dialing parity plan at this time because NextG Networks will provide data only services and will not be providing access to long distance voice telecommunications services.

4. The Commission determines that a conditional Certificate of Public Convenience and Necessity should be granted to NextG Networks authorizing it, as a public utility, to offer local exchange telecommunications services under the provisions of the Commission's "Rules for the Provision of Telecommunications Services."

Now, therefore, **IT IS ORDERED:**

1. That, pursuant to 26 Del. C. §§ 203A and 703(3) and the Commission's "Rules for the Provision of Telecommunications Services," a conditional Certificate of Public Convenience and Necessity is granted to NextG Networks of NY, Inc., d/b/a NextG Networks East, to operate as a public utility and provide local exchange and competitive intrastate telecommunications services as described in the application filed on February 16, 2007.

2. That NextG Networks of NY, Inc., d/b/a NextG Networks East, shall provide local exchange telecommunications services in the manner required by the Commission's "Rules for the Provision of

Telecommunications Services," and shall, at all times, comply with all applicable provisions of such Rules. NextG Networks of NY, Inc., d/b/a NextG Networks East, shall also file all returns and pay all assessments and fees as may be required by the provisions of 26 Del. C. §§ 114 and 115.

3. That the Certificate is awarded upon, and subject to, the following conditions:

- (a) That ten (10) days prior to the date NextG Networks of NY, Inc., d/b/a NextG Networks East, intends to offer and implement telecommunications services, NextG Networks of NY, Inc., d/b/a NextG Networks East, shall file a tariff or price list with rules, regulations, terms, and conditions of service specifically adopted for Delaware; and
- (b) That NextG Networks of NY, Inc., d/b/a NextG Networks East, has a Commission approved interconnection agreement between NextG Networks of NY, Inc., d/b/a NextG Networks East, and Verizon Delaware LLC or another certificated local exchange carrier.

4. That the Commission grants the request of NextG Networks, Inc., d/b/a NextG Networks East, to waive the requirement to file and have a Commission approved intraLATA toll dialing parity plan until it makes an application to offer end-use customers access to local and long distance telecommunications services.

5. That the provisions of 26 Del. C. § 208(b) are waived, and NextG Networks of NY, Inc., d/b/a NextG Networks East, is authorized to

maintain its books and records relating to its Delaware operations outside of the State of Delaware provided, however, and upon the condition that, all such books and records relating to Delaware operations as the Commission may deem it reasonably necessary from time to time, to review and copy, shall be provided to the Commission at the Commission's Office within the State of Delaware in a timely manner upon written request by the Commission's Deputy Director or Executive Director. The conduct of such a review at a location other than Delaware shall be at the Applicant's expense.

6. That NextG Networks of NY, Inc., d/b/a NextG Networks East, shall comply with all state and federal statutes and rules relating to a customer's selection of a preferred carrier of telecommunications services. NextG Networks of NY, Inc., d/b/a NextG Networks East, agrees to pay all fees, assessments, penalties, and allowed damages arising from a violation of such state and federal statutes or rules pertaining to the selection of a preferred carrier.

7. That a violation of the "Rules for the Provision of Telecommunications Services" may result in suspension or revocation of this Certificate.

8. That the Commission reserves the jurisdiction and authority to enter such further Orders in this proceeding as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

PSC Docket No. 07-42, Order No. 7187 Cont'd.

/s/ Joann T. Conaway
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary