

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Application of NGA 911, L.L.C. for a Certificate of Public Convenience and Necessity to Provide Telecommunications Services in the State of Utah	<u>DOCKET NO. 19-2612-01</u> <u>REPORT AND ORDER</u>
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ISSUED: April 3, 2019

SYNOPSIS

The Public Service Commission (“PSC”) approves the application of NGA 911, L.L.C. (“NGA”) for a Certificate of Public Convenience and Necessity (“CPCN”) and authorizes NGA to provide Telecommunications Services within Utah.

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PROCEDURAL HISTORY

On February 5, 2019, NGA filed this application, seeking a CPCN for authority to provide telecommunications services within Utah. The application provides detailed information regarding the technical, financial, and managerial resources and abilities of NGA to provide the public telecommunications services it seeks to offer. In addition, NGA requests the \$100,000 bond requirement set forth in Utah Admin. Code R746-349-3(A)(2) be waived, as NGA will not require customer deposits.

On February 6, 2019, the PSC issued a Notice of Filing and Comment Period (“Notice”), which set a comment deadline of March 7, 2019 and reply deadline of March 22, 2019. The Notice further stated that if no comment is filed in opposition to the application, the PSC will adjudicate this docket informally and without hearing. *See* Utah Code Ann. § 54-8b-3. No party filed comments in opposition. Therefore, the PSC will adjudicate this docket informally.

On March 4, 2019, the Division of Public Utilities (“DPU”) filed a memorandum recommending approval of the application. The DPU states it has reviewed the technical,

managerial, and financial abilities of NGA and that it believes NGA has provided the necessary information to fulfill the requirements under the PSC's rules. The DPU concludes the public interest will be promoted by the PSC granting NGA a CPCN as requested under the same terms and conditions allowed in other CPCNs. In its memorandum, the DPU emphasized the following of NGA's representations:

1. NGA seeks statewide authority to serve and work collaboratively with potential public safety answering points ("PSAPs"), voice-over internet protocol providers, incumbent local exchange carriers ("ILEC"), wireless providers, competitive local exchange carriers ("CLEC"), and/or other local 9-1-1 authorities. NGA plans to serve PSAPs who seek to transition from their existing legacy network to an NG9-1-1 network or who seek network components in connection with their 9-1-1 call handling systems.
2. NGA does not intend to provide local access line (dial tone) services. As such, NGA will not be providing access to local exchange, toll, operator services, directory assistance, and directory listings.
3. NGA maintains that the issuance of a CPCN is in the public interest. NGA seeks to secure a CPCN primarily to offer 9-1-1 emergency services to government and quasi-government PSAPs throughout Utah. Issuance of a CPCN will accelerate the development and deployment of next generation 911 services and promote more robust public safety offerings that will benefit and protect Utah residents.

4. NGA does not provide dial tone services, therefore, it has not received complaints or investigations of unauthorized switching, otherwise known as slamming, or other illegal activities in any jurisdiction.
5. According to financial statements attested to be accurate, objective, and with integrity by Michelle Bland, Senior Vice President, Operations, NGA has a positive net worth and has ample working capital.
6. NGA does not currently own facilities or property in the State of Utah, but it will acquire or construct facilities in the state as necessary in order to provide its services. To facilitate deployment of services, NGA intends to obtain interconnection agreements and/or other agreements with CLECs or ILECs, as permitted under the Telecommunications Act of 1996, 47 U.S.C. § 251(c).

In light of the foregoing, the PSC enters the following Findings of Fact, Conclusions of Law, and Order.

#### FINDINGS OF FACT

1. There are no intervenors in this docket. There has been no opposition to the application.
2. NGA has filed documentation containing sufficient information to support the application.
3. NGA has demonstrated it is qualified to do business in Utah.
4. NGA proposes to serve PSAPs who seek to transition from their existing legacy network to an NG9-1-1 network or who seek network components in connection with their 9-1-1 call handling systems as explained in this Order and the application.

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5. NGA will utilize its managerial expertise to support its Utah operations.
6. NGA has sufficient technical resources and abilities to provide the telecommunications services it proposes to offer.
7. NGA has a positive net worth and sufficient working capital for its Utah operations.
8. NGA's service offerings will provide customers with a wider range of choice in meeting their telecommunications needs and will foster competition in the marketplace.
9. NGA will not require customer deposits or offer any prepaid services in Utah.

CONCLUSIONS OF LAW

1. NGA meets each of the statutory requirements of Utah Code Ann. § 54-8b-1.1 *et seq.* for the requested CPCN.
2. NGA's request to be exempted from the \$100,000 bond requirement is in accord with PSC practice and is in the public interest.
3. Issuance of the requested CPCN to provide telecommunications services, as described in the application, is in accord with the legislative policy set forth in Utah Code Ann. § 54-8b-1.1 *et seq.*, and is in the public interest.

ORDER

In light of the Findings and Conclusions set forth above, the PSC ORDERS:

- a. NGA is granted the CPCN attached as Exhibit A, which exhibit is incorporated by reference into this Order as if fully set forth.
- b. NGA's CPCN is subject to the limitations stated therein.

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- c. NGA is exempted from the \$100,000 bond requirement set forth in Utah Administrative Code R746-349-3(A)(2).

Any person may file a protest in regard to this Order within 20 days from the date of issuance. If the PSC finds the protest to be meritorious, the effective date shall be suspended pending further proceedings. Otherwise, this order shall take effect 20 days from the signature date below.

DATED at Salt Lake City, Utah, April 3, 2019.

/s/ Michael J. Hammer  
Presiding Officer

Approved and confirmed April 3, 2019 as the Order of the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary  
DW#307410

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 20 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

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EXHIBIT A

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Application of NGA 911, L.L.C. for a Certificate of Public Convenience and Necessity to Provide Telecommunications Services in the State of Utah	<p><u>DOCKET NO. 19-2612-01</u></p> <p><u>CERTIFICATE 2612</u></p>
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ISSUED: April 3, 2019

The Public Service Commission of Utah, pursuant to Utah Code Ann. § 54-8b-2.1, issues a Certificate of Public Convenience and Necessity authorizing NGA 911, L.L.C. to provide public telecommunications services within the State of Utah. NGA 911, L.L.C. may not operate in any area with fewer than 5,000 access lines that is served by an incumbent local exchange carrier that has fewer than 30,000 total access lines.

DATED at Salt Lake City, Utah, April 3, 2019.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
PSC Secretary

CERTIFICATE OF SERVICE

I CERTIFY that on April 3, 2019, a true and correct copy of the foregoing was served upon the following as indicated below:

By Electronic-Mail:

Lance J. M. Steinhart, Esq. ([info@telecomcounsel.com](mailto:info@telecomcounsel.com))  
Attorney for NGA 911, L.L.C.

Don Ferguson, CEO ([don@nga911.com](mailto:don@nga911.com))  
Michelle Bland, Senior VP, Operations ([services@nga911.com](mailto:services@nga911.com))  
NGA 911, L.L.C.

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Division of Public Utilities

By Hand-Delivery:

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Administrative Assistant