



Agenda Date: 9/23/20
Agenda Item: IB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF THE VERIFIED PETITION OF) ORDER
NGA 911, L.L.C. FOR AUTHORIZATION TO PROVIDE)
LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES IN THE STATE)
OF NEW JERSEY) DOCKET NO. TE20070483

Parties of Record:

Joshua M. Bobeck, Esq., Morgan Lewis and Bockius LLP
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

Pursuant to the New Jersey Telecommunications Act of 1992, N.J.S.A. 48:2-21.16 *et seq.*, and the Federal Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), and by letter dated July 8, 2020, NGA 911, L.L.C. (“Petitioner” or “NGA 911”) filed a verified petition (“Petition”) with the New Jersey Board of Public Utilities (“Board”). The Petition seeks authority for NGA 911 to operate as a competitive local exchange carrier (“CLEC”) and provide local exchange and interexchange telecommunications services, including emergency call routing, transport, and related functionalities to state and municipal governmental agencies to support Public Service Answering Point (“PSAP”) operations, throughout the State of New Jersey. At this time, Petitioner does not seek to terminate any small or rural exemptions existing under Section 251(f)(1) of the Federal Telecommunications Act of 1996. Petitioner has submitted its financial statements under seal and has filed a sworn affidavit with substantiation for confidential treatment in accordance with the Board’s rules for determining confidentiality, N.J.A.C. 14:1-12 *et seq.*, and in compliance with the Open Public Records Act, N.J.S.A. 47:1A-1 *et seq.*

BACKGROUND

NGA 911 is a privately held Limited Liability Company organized under the laws of the State of California. Petitioner is majority owned by NGA 911, Inc., a California Corporation. Petitioner was formed in 2016 and did not become an operating entity until 2018 when NGA 911, Inc. contributed substantially all of its assets to Petitioner and become Petitioner’s majority owner. Petitioner’s principal offices are located at 8383 Wilshire Boulevard, Suite 800, Beverly Hills, California 90211.

Petitioner has submitted a copy of its Articles of Organization from the State of California and its New Jersey Certificate of Authority to Transact Business in New Jersey as a Foreign Limited Liability Company. Petitioner is currently authorized to provide intrastate telecommunications

services in California, Florida, Georgia, Louisiana, Minnesota, Montana, Nebraska, Nevada, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, and Wisconsin. Petitioner's applications to provide intrastate telecommunications services are pending in each of Illinois and New York, and NGA 911 is in the process of seeking such authorization in other states. Petitioner has not had a certification or authorization denied, suspended, terminated, or revoked by any state. Neither Petitioner nor any of its officers have been or are currently the subject of any civil or criminal proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency that could adversely affect Petitioner's ability to provide telecommunications services in New Jersey.

Petitioner plans to respond to Bid Solicitation #20DPP00439 for T3075 for the operation of a Next Generation 9-1-1 ("NG9-1-1") call delivery network currently serving the PSAPs within the State of New Jersey. NGA 911 has indicated that if it is awarded the contract, it will provide service under the contract for seven (7) years, design the network, and obtain the appropriate interconnection agreement with Incumbent Local Exchange Carriers ("ILECs") and other carriers, including wireless service providers and Voice over Internet Protocol ("VoIP") providers.

Petitioner seeks statewide 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 PSAP operations in New Jersey. Petitioner seeks to comply with the State of New Jersey's regulatory requirements so its advanced technology can be applied and offered to modernize the state's 9-1-1 system with the anticipated impact of improving the operations, function and downtime of 9-1-1 in the State at a manageable cost. Petitioner primarily intends to provide a NG9-1-1 solution that utilizes a highly efficient path to achieve end-to-end Internet-Protocol ("IP") call handling for NG9-1-1 services, and will support and deliver legacy E911 and 9-1-1 services for carriers and PSAPs that have not yet transitioned to NG9-1-1 services. Petitioner's incremental deployment, patented and patent pending services are designed to safely transition legacy 9-1-1 Systems to the latest NG9-1-1 technology. Petitioner proposes to provide these services primarily through facilities to be leased from a variety of telecommunication carriers, but may use its own facilities. Petitioner will use existing network infrastructure, including data centers, interconnection facilities, fiber optic lines, poles, conduits, ducts, and other access methods. Petitioner will rely on Ingress, ESInet, Cloud, Direct Connect and PSAP based network and infrastructure facilities for the provisioning of a combination of both legacy 9-1-1 and IP-based NG9-1-1 services. Petitioner's NG9-1-1 Emergency Services provides a secure, IP-based, open-standards system comprised of hardware, software, data, Next Generation Core Service ("NGCS") Functional Elements ("FS"), and operational policies and procedures.

Petitioner claims it has created an infrastructure with its cloud based NG9-1-1 services that stays ahead of cyber threats, scales on demand, and employs numerous failover strategies. It also claims that its cloud based NG9-1-1 services enable multiple access points to integrate new technology through innovative collaborative techniques with no single point of failure. NGA 911 further claims that it allows for the seamless integration of PSAP processes that translate into more accurate call routing, faster call processing time, increased resource efficiency, quicker response times, and better decision making. Petitioner also will be able to process and transport calls from the legacy 9-1-1 system. Petitioner will use a Legacy Network Gateway to convert signaling to IP before routing and delivering to the appropriate PSAP for wireless and wirelines service providers using circuit-base and SS7 signaling. And, for wireless, wireline, and VoIP service providers using IP based multimedia SIP signaling, Petitioner offers aggregation and routing services that comply with NG9-1-1 standards to deliver calls to the appropriate PSAP. Petitioner does not have facilities in New Jersey or any current or specific plans for the construction of facilities within New Jersey. However, Petitioner seeks authority to construct

facilities and intends to deploy telecommunications equipment that it will own in New Jersey in the event doing so becomes necessary to fulfill NGA 911's public safety obligations to its customers. At present, Petitioner does not plan to provide retail switched voice services, including dial tone to residential/business/end user customers in New Jersey. In the event that Petitioner changes its business plan as dictated by marketplace conditions, and decides to expand its services to include traditional local exchange or interexchange telecommunications services to retail residential or business end users, NGA 911 will notify the Board of NGA 911's intent to utilize its authority or seek further approval for the expansion of its authority to provide such services. Petitioner will continuously monitor and maintain a high level of control over its network 24-hours/day, 7 days/week. Pursuant to N.J.A.C. 14:10-5.2, Petitioner will post its general terms, conditions and rates for the provision of telecommunications services in New Jersey on its website at www.nga911.com and will provide the Board with a specific link to access the information via the Petitioner's website upon approval of the Petition. Petitioner maintains a toll-free number for customer service inquiries.

Petitioner requests a waiver of N.J.S.A. 48:3-7.8, which requires that books and records be kept within the State of New Jersey. For administrative efficiencies, Petitioner requests permission to keep all financial books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices located in Beverly Hills, California.

By letter dated September 2, 2020, the New Jersey Division of Rate Counsel ("Rate Counsel") submitted comments to the Board stating that, based on its review, Rate Counsel is satisfied that the verified petition meets the regulatory requirements and is consistent with the public interest, convenience, and necessity. Rate Counsel does not object to granting the waiver requests in connection with record-keeping by Petitioner, nor does Rate Counsel oppose Petitioner's request to treat its financial statement as confidential and placed under seal. Accordingly, Rate Counsel does not oppose the Board granting Petitioner's requests in this matter.

DISCUSSION

On February 8, 1996, the Telecommunications Act of 1996, P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. § 151 *et seq.*, was signed into law, promoting competition and removing barriers to entry in telecommunications markets by providing that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." 47 U.S.C. § 253(a). The Board, as the State regulatory authority, may impose requirements necessary to protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers on a competitively neutral basis and consistent with universal service. 47 U.S.C. § 253(b).

In considering this petition for CLEC authority to provide telecommunication services, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets by qualified applicants. 47 U.S.C. § 253(a). The Board additionally notes, pursuant to the New Jersey Telecommunications Act of 1992, the State policy to "[p]rovide diversity in the supply of telecommunications services", and the Legislative findings that "competition will promote efficiency, reduce regulatory delay, and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4),(b)(1) and (b)(3).

Therefore, having reviewed NGA 911's Petition and the information supplied, the Board **FINDS** that Petitioner, with respect to its request to provide local exchange and interexchange

telecommunications services, is in compliance with the Board's filing requirements to provide landline facilities-based competitive local exchange telecommunications landline services in New Jersey. Accordingly, the Board **HEREBY AUTHORIZES** Petitioner to provide local exchange and interexchange telecommunications services in the State of New Jersey. These findings and authorization do not pertain to non-CLEC services. Pursuant to N.J.S.A. 48:2-21.19(a)(2) and N.J.A.C. 14:10-5.2, Petitioner shall make the terms and conditions of said service publicly available on its website and shall provide a printed copy of those terms and conditions to a customer upon request.

The granting of such authority conveys certain rights and privileges upon the Petitioner, in its designation as a CLEC in New Jersey, which are reserved for the provision of facilities-based landline services. While CLECs may also provide other telecommunications services, such as wireless, small cell or distributed antenna systems, these service offerings are beyond the scope of Board jurisdiction and the granting of CLEC authority in this Order and generally. Specifically, the Board granting of CLEC authority is limited to the provision of competitive facilities-based local and interexchange services. To the extent that a CLEC provides non-regulated telecommunications services, the CLEC benefits, rights or privileges are not applicable to those non-regulated services.

Regarding NGA 911's request that its information be treated confidentially, the Board makes no finding and directs that the information be considered in accordance with the Board's rules at N.J.A.C. 14:1-12 *et seq.*

The Board **HEREBY ORDERS:**

- 1) Pursuant to N.J.S.A. 48:2-21.19(a)(2) and N.J.A.C. 14:10-5.2, Petitioner shall post the terms and conditions of its retail competitive services on its website in a publicly-available location, and shall also provide a printed copy of those terms and conditions to a customer upon request of the customer.
- 2) Petitioner shall provide notice to the Board of its website link described above that contains the terms and conditions of its competitive local exchange and interexchange telecommunications services to end-use subscribers before commencing/offering retail local exchange services to end-use subscribers. To ensure service quality, Petitioner shall notify the Board within ten (10) days from the date it begins providing such services to New Jersey customers;
- 3) Petitioner shall provide notice to the Board of its website link which contains the terms and conditions of its Legacy 9-1-1, E-9-1-1 and NG9-1-1 service to ensure that Petitioner's owned/leased facilities are equipped to provide reliable and functional access to 9-1-1, E-9-1-1 and NG9-1-1 services to subscribers. To ensure service quality, Petitioner shall notify the Board within ten (10) days from the date it begins providing such services to New Jersey customers;
- 4) Pursuant to N.J.S.A. 48:2-16(2)(b), N.J.A.C. 14:3-6.3, and N.J.S.A. 48:2-62, Petitioner shall file an annual report and a statement of gross intrastate revenues from operations form (AR3-1) as of December 31 of each year, which is due on or before March 31 and June 1 of the following year, respectively. If Petitioner does not receive the Board's annual report package from the Division of Audits on or before February 1 of each year, it is Petitioner's responsibility to obtain them from the Board. It is also Petitioner's responsibility to ensure timely filing of these reports. Pursuant to N.J.S.A. 48:2-16.3, if Petitioner fails to

file an annual report by the due date, Petitioner shall be subject to a penalty of \$5.00 for each day thereafter until such report is filed;


- 5) Failure to comply with this order may result in monetary penalties pursuant to N.J.S.A. 48:2-42, suspension of CLEC authority, and/or revocation of CLEC authority; and
- 6) In accordance with N.J.S.A. 48:2-59, N.J.S.A. 48:2-60 and N.J.S.A. 52:27EE-52, Petitioner is subject to an annual assessment by both the Board and the Division of Rate Counsel, respectively.

Petitioner additionally requests a waiver of the requirements set forth in N.J.S.A. 48:3-7.8. Petitioner seeks authority to keep its books and records outside the State of New Jersey. The request was noticed and unopposed. Upon review, the Board **FINDS** that the Petitioner demonstrated good cause why relief should be granted. Subject to the Petitioner's continuing responsibility to produce such records at such time and place within this State as the Board may designate, in the manner requested, and to pay all expenses or charges incurred for any investigation or examination of these books and records, the Board **GRANTS** its permission to keep Petitioner's records, books, accounts, documents and other writings outside the State of New Jersey pursuant to N.J.A.C. 14:1-5.15.

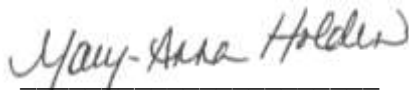
This Order shall be effective October 3, 2020.

DATED: September 23, 2020

BOARD OF PUBLIC UTILITIES
BY:




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 PRESIDENT



 MARY-ANNA HOLDEN
 COMMISSIONER




 DIANNE SOLOMON
 COMMISSIONER



 UPENDRA J. CHIVUKULA
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 ROBERT M. GORDON
 COMMISSIONER

ATTEST: 

 AIDA CAMACHO-WELCH
 SECRETARY

**IN THE MATTER OF VERIFIED PETITION OF NGA 911, L.L.C. FOR AUTHORIZATION TO
PROVIDE LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS
SERVICES IN THE STATE OF NEW JERSEY**

DOCKET NO. TE20070483

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