

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

NextG Networks of Illinois, Inc. :
: **02-0846**
Application for a Certificate of Local and :
Interexchange Authority to Operate :
as a Reseller and Facilities Based Carrier :
of Telecommunications Services. :

ORDER

By the Commission:

On December 18, 2002, NextG Networks of Illinois, Inc. ("Applicant" or "NextG"), filed a verified Application with the Illinois Commerce Commission ("Commission") pursuant to Sections 13-403 of the Public Utilities Act ("Act") for a Certificate of Interexchange Service Authority to provide interexchange facilities-based telecommunications services in Illinois; pursuant to 13-404 for a Certificate of Service Authority to provide resold local and interexchange telecommunications services in Illinois; and pursuant to 13-405 for a Certificate of Exchange Service Authority to provide local facilities-based telecommunications services in Illinois.

Pursuant to notice given in accordance with the rules and regulations of the Commission, this matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois on January 22, 2003. Applicant was represented by counsel and presented the testimony of its Chief Technology Officer, David M. Cutrer, in support of the application. Karen Chang of the Telecommunications Division appeared for Commission Staff. At the conclusion of the hearing on January 22, 2003, the record was marked "Heard and Taken".

Applicant's Position

NextG, a Delaware corporation authorized to transact business in Illinois, seeks to offer resold and facilities-based local and interexchange telecommunications services. Applicant submitted evidence that it has the requisite technical, financial and managerial qualifications to provide the services set forth in its application. NextG provided evidence that its Officers have sufficient experience in business and in the telecommunications industry to support the services it will offer. Mr. Cutrer testified with regard to the sufficiency of Applicant's financial resources to provide telecommunications services in Illinois. He

testified that Applicant will provide its own technical support and that Applicant would adhere to all federal and state laws and regulations pertaining to slamming and cramming.

Staff's Position

Staff stated that it had reviewed NextG's application and supporting documentation and based on that review, recommended that the application be approved.

Applicant has requested that the Commission make certain declarations and grant certain waivers of the requirements of the Public Utilities Act and from the rules and regulations of the Commission. The services Applicant proposes to provide will be competitive telecommunications services as described in Section 13-502(b) of the Act. Petitioner is required to file a tariff with the Commission under Section 13-501 of the Act describing the nature of its service, the applicable rates and charges, and the terms and conditions of the service provided. If Applicant files the required tariff in compliance with Section 13-502(e) of the Act and the rules adopted thereunder in 83 Ill. Adm. Code 745, many provisions of the Act as well as the regulations adopted by the Commission in Title 83 of the Illinois Administrative Code will be inapplicable to the Applicant.

For local and interexchange service, Applicant should be granted pursuant to Section 13-402 of the Act, a waiver of 83 Ill. Adm. Code, Part 710, the requirement to keep books and records in accordance with the Uniform System of Accounts, in order to reduce the economic burdens of regulation on a telecommunications carrier which provides only competitive services. For local service, Applicant should also be granted a variance from Part 735.180. Applicant will contract with underlying carriers to include Applicant's customer listings in their directories. For interexchange service, Applicant should further be granted a waiver of Part 735, governing credit, billing deposits, and termination of service, for the reasons stated hereinabove.

Applicant has also requested Commission approval to maintain its books and records at its principal place of business in California, pursuant to 83 Ill. Adm. Code 250. Applicant's request should be granted in accordance with Section 5-106 of the Act.

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) NextG Networks of Illinois, Inc., a Delaware corporation authorized to transact business in Illinois, seeks a Certificate of Interexchange Service Authority to provide facilities-based interexchange telecommunications services in Illinois; a Certificate of Service Authority to provide resold local and interexchange telecommunications services in Illinois; and a Certificate of Exchange Service Authority to provide facilities-based local telecommunications services in Illinois;

- (2) the Commission has jurisdiction over the Applicant and the subject matter herein;
- (3) as required by Sections 13-403, 13-404 and 13-405 of the Act, Applicant possesses sufficient technical, financial and managerial resources to provide facilities-based interexchange, resold local and interexchange, and facilities-based local exchange telecommunications services in Illinois;
- (4) Applicant should file with the Commission a tariff consisting of its rates, rules and regulations in accordance with Sections 13-501 and 13-502 of the Act, to be effective upon proper filing, before commencing service;
- (5) with regard to Applicant's provision of local exchange service, Applicant should be granted a variance from the requirements of 83 Ill. Adm. Code 735, Section 735.180, regarding publication of local directories, as it will contract with the incumbent local exchange carrier to include Applicant's customer listings within those directories;
- (6) with regard to Applicant's provision of local and interexchange service, Applicant should be granted a waiver from 83 Ill. Adm. Code 710, the Uniform System of Accounts for Telecommunications Carriers, as long as Applicant maintains its accounting records in accordance with Generally Accepted Accounting Principles and at a level of detail substantially similar to the accounting system which it currently uses pursuant to its Chart of Accounts, and in sufficient detail to comply with all applicable tax laws;
- (7) with regard to Applicant's provision of interexchange services, Applicant should further be granted a waiver of Part 735, governing credit, billing deposits, and termination of service;
- (8) Applicant should establish books of account such that revenues from its telecommunications services, subject to the public utility revenue tax, are segregated from the revenues derived from other business activities not regulated by the Commission;
- (9) pursuant to 83 Ill. Adm. Code 250, Applicant should be allowed to maintain its books and records at its principal place of business in California in accordance with Section 5-106 of the Act.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that NextG Networks of Illinois, Inc. be, and is hereby, granted a Certificate of Interexchange Service Authority pursuant to Section 13-403 to provide facilities-based interexchange telecommunications services in Illinois.

IT IS FURTHER ORDERED that the Certificate of Interexchange Service Authority hereinabove granted shall be the following:

CERTIFICATE OF INTEREXCHANGE SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that NextG Networks of Illinois, Inc. is authorized, pursuant to Section 13-403 of the Public Utilities Act, to provide facilities-based interexchange telecommunications services within the State of Illinois.

IT IS FURTHER ORDERED by the Illinois Commerce Commission that NextG Networks of Illinois, Inc. be, and is hereby, granted a Certificate of Service Authority pursuant to Section 13-404 of the Act for the resale of local and interexchange telecommunications services in Illinois.

IT IS FURTHER ORDERED that the Certificate of Service Authority hereinabove granted shall be the following:

CERTIFICATE OF SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that NextG Networks of Illinois, Inc. is authorized, pursuant to Section 13-404 of the Public Utilities Act, to provide resold local and interexchange telecommunications services within the State of Illinois.

IT IS FURTHER ORDERED by the Illinois Commerce Commission that NextG Networks of Illinois, Inc. be, and is hereby, granted a Certificate of Exchange Service Authority pursuant to Section 13-405 of the Act for the provision of facilities-based local exchange telecommunications services in Illinois.

IT IS FURTHER ORDERED that the Certificate of Service Authority hereinabove granted shall be the following:

CERTIFICATE OF EXCHANGE SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that NextG Networks of Illinois, Inc. is authorized, pursuant to Section 13-405 of the Public Utilities Act, to provide facilities-based local exchange telecommunications services within the State of Illinois.

IT IS FURTHER ORDERED that NextG Networks of Illinois, Inc. file with this Commission a tariff consisting of its rates, rules and regulations, to be effective upon proper filing before commencing service.

IT IS FURTHER ORDERED that 83 Ill. Adm. Code Parts 710, 735.180 and 735 be, and are hereby, waived as set forth in Findings (5), (6), and (7) hereinabove.

IT IS FURTHER ORDERED that pursuant to 83 Ill. Adm. Code 250, Applicant is authorized to maintain its books and records at its principal place of business in California.

IT IS FURTHER ORDERED that as a condition of these Certificates, NextG Networks of Illinois, Inc. be and is hereby, directed to establish books of account such that revenues from its telecommunications services, subject to the public utility revenue tax, are segregated from the revenues derived from other business activities not regulated by the Commission.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 12th day of March, 2003.

(SIGNED) EDWARD C. HURLEY

Chairman