BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO, Complainant, vs. NEXTG NETWORKS OF CALIFORNIA, INC. (U-6754-C), Respondent.	Complaint 05-03-010 (Filed March 9, 2005)

STIPULATION OF MATERIAL FACTS

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July 12, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION
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CITY AND COUNTY OF SAN FRANCISCO, Complainant, vs. NEXTG NETWORKS OF CALIFORNIA, INC. (U-6754-C), Respondent.	Complaint 05-03-010 (filed March 9, 2005)

STIPULATION OF MATERIAL FACTS

IT IS HEREBY STIPULATED by and between the undersigned parties to this action through their counsel of record, pursuant to Rule 51.1 of the Commission's Rules of Practice and Procedure, hereby stipulate and agree that the following material facts are not in dispute.[1]

STIPULATED MATERIAL FACTS

NextG's Services

1. NextG Networks of California, Inc. ("NextG") provides radiofrequency ("RF") transport services to providers of wireless telecommunications services. NextG currently operates as a carrier's carrier and does not provide services to retail end users.

2. NextG does not provide commercial mobile radio services ("CMRS"), personal

[1] The July 6, 2005 Joint Ruling and Scoping Memo provided that the parties would file this Stipulation of Material Facts on July 11, 2005. On July 11, 2005, Administrative Law Judge Janice Grau granted a one-day extension of that filing date *via* telephone.

communications services ("PCS") or any other "wireless services" regulated by the Federal Communications Commission ("FCC"). NextG does not hold or control any wireless spectrum licenses from the FCC. NextG's RF transport services facilitate the provision of CMRS or PCS services by NextG's wireless carrier customers that hold or control wireless spectrum licenses from the FCC.

3. As stated in its tariff, NextG at this time does not provide residential or business exchange services to end users.

NextG's CPCN

4. On September 18, 2002, NextG filed an application with the Commission for a certificate of public convenience and necessity ("CPCN") (Application No. 02-09-019), requesting authority to operate as a limited facilities-based competitive local carrier ("CLC") and non-dominant interexchange carrier ("IXC").

5. In Application No. 02-09-019, NextG described the RF transport services that NextG was seeking authority to offer in the State of California.

6. On January 13, 2003, the Commission granted NextG a CPCN to operate as a limited facilities-based CLC and non-dominant IXC (Decision No. 03-01-061).

7. On February 25, 2003, NextG filed a written acceptance of the CPCN with the Director of the Telecommunications Division.

8. On January 23, 2004, NextG requested an extension of the timeframe for commencement of service under its CPCN. On January 28, 2004, the Commission granted the requested extension until July 30, 2004. On July 21, 2004, NextG notified the Commission that it had commenced providing telecommunications service in the State of California under its CPCN.

NextG's Network

9. To provide its RF transport service, NextG constructs microcellular networks that in part transport CMRS and PCS carriers' voice and data traffic.

10. NextG's network is made up of a NextG "hub" (which operates like a traditional central switch in the wireline network) and a system of fiber optic cables, remote nodes and small antennas attached to poles and other structures. A carrier's analog or digital RF signal is received at the NextG hub (typically located on private property) and directed to NextG's conversion equipment located at the hub. NextG's conversion equipment converts the carrier's RF signal to an optical signal and transmits the signal across fiber optic cables strung on existing utility poles or installed in existing underground conduit. As the signal nears the location of the carrier's subscriber, a NextG remote node interconnected with the cable and affixed to the utility pole converts the optical signal back to an RF signal and transmits it out to the subscriber's handset or similar device *via* a small antenna located at NextG's remote node. The process works in reverse with respect to RF signals received at the NextG remote node.

11. NextG owns the equipment in the NextG hub, which NextG uses to manage an individual network, as well as the interconnecting fiber optic cable. Ownership of the antennae and other equipment located at the remote nodes will vary. In some instances, NextG will own this infrastructure. In other cases, NextG's carrier customer will own all or part of the equipment and antennae located at the remote nodes, while NextG will control, operate and manage the network as a whole into which both NextG's and its customer's equipment has been integrated. NextG will, however, own the infrastructure in all networks that are shared by different carrier customers (*i.e.* not for one carrier's exclusive use).

NextG's Construction Activities in California

12. NextG has constructed or is in the process of constructing networks in the following California localities: Brea, Calabasas, Calistoga, Chino Hills, Contra Costa County, Los Angeles (city), Los Angeles County, Malibu, Monterey County, Napa County, Nevada County, Orange County, Pinole and Richmond. In these localities, NextG has obtained permits or other requisite approvals for the installation of facilities in public rights-of-way. There are other localities in California in which NextG intends to construct networks. Certain of the localities where NextG intends to construct networks have required NextG to enter into a right-of-way use agreement for the installation of facilities in public rights-of-way, while others have allowed such use pursuant to a permit or other approval. Exhibit A hereto lists all of the California localities in which NextG has sought the necessary approval or authority to construct networks.

NextG's Representations to the City and Other Local Governments in California

13. In its correspondence and other communications with the City and County of San Francisco ("City"), NextG made the following representations: (1) NextG is a "facilities-based provider of protocol-agnostic, fiber-aggregated optical-to-radio frequency ("RF") conversion and microcellular repeater services"; (2) NextG will make its RF transport services available to wireless carriers; (3) the Commission granted NextG a CPCN to operate as a "telephone corporation"; and (4) NextG will attach microcells and antennas to utility and other poles located in public rights-of-way. NextG provided the City with a copy of its CPCN.

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14. NextG has made similar representations to representatives of localities identified in Exhibit A. In some instances, NextG provided local government representatives with a document entitled "*A Local Official's Guide*: Responding to a Telecommunications Application from NextG Networks (California)." In certain instances, NextG also provided local government officials with a form "Right-of-Way Use Agreement" that NextG asked the local agencies to execute.

Dennis J. Herrera
CITY ATTORNEY
Theresa L. Mueller
William K. Sanders
Deputy City Attorneys
Attorneys for Complainant
CITY AND COUNTY OF SAN FRANCISCO

Dated: July 12, 2005

Suzanne K. Toller
DAVIS WRIGHT TREMAINE LLP

Attorneys for Respondent
NEXTG NETWORKS OF CALIFORNIA, INC.

Dated: July 12, 2005

THE FOREGOING STIPULATION IS ADOPTED,

Administrative Law Judge Janice L. Grau

Dated: _____

EXHIBIT A

California Localities In Which NextG Has Sought Approval Or Authority To Construct Networks

1. Agoura Hills
2. Alameda County
3. Anaheim
4. Atherton
5. Berkeley
6. Beverly Hills
7. Brea
8. Brentwood
9. Burbank
10. Calabasas
11. Calistoga
12. Carlsbad
13. Chino Hills
14. Contra Costa County
15. Coronado
16. Costa Mesa
17. Danville
18. Del Mar
19. El Cerrito
20. Emeryville
21. Encinitas
22. Fremont
23. Glendale
24. Hayward
25. Hillsborough
26. Irvine
27. LaCanada-Flintridge
28. Lafayette
29. Laguna Niguel
30. Long Beach
31. Los Altos
32. Los Angeles, City of
33. Los Angeles, County of
34. Malibu
35. Manhattan Beach
36. Marin County
37. Menlo Park
38. Millbrae
39. Milpitas
40. Mission Viejo
41. Monte Sereno
42. Monterey County
43. Napa County
44. Nevada County
45. Oakland
46. Orange County
47. Orinda
48. Pasadena
49. Pinole
50. Pleasanton
51. Redwood City
52. Richmond
53. Riverside County
54. S. Lake Tahoe
55. San Diego, City of
56. San Diego, County of
57. San Francisco, City and County
58. San Lorenzo
59. San Mateo
60. San Rafael
61. Santa Barbara, City of
62. Santa Barbara, County of
63. Santa Clarita
64. Santa Monica
65. Saratoga
66. Sausalito
67. Solana Beach
68. Tiburon

CERTIFICATE OF SERVICE

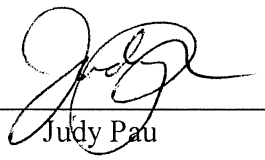
I, Judy Pau, certify:

I am employed in the City and County of San Francisco, California, I am over eighteen years of age and am not a party to the within entitled cause. My business address is One Embarcadero Center, Suite 600, San Francisco, California 94111-3834.

On July 12, 2005, I caused the following to be served:

STIPULATION OF MATERIAL FACTS

via electronic mail and First class mail to all parties on the service list C.05-03-010.



Judy Pau

Service List – C.05-03-010