



SOUTH DAKOTA 9-1-1 COORDINATION BOARD

MEETING MINUTES FOR JULY 25, 2018

VIA CONFERENCE CALL

Board members present: Bryan, Haines, Harding (joined at 9:10am), Kippley, McPeek, Miller, Reinesch, Ruffledt, Serr

Board Members Absent: Brown, DeNeui

Staff Present: Shawnie Rechtenbaugh (State 911 Coordinator), Maria King (NG911 Project Manager)

Others present: Jenna Howell (DPS), Arin Diedrich (DPS), Sara Weston, Joel McCamley and Wendy Day (911 Authority), Bob Mercer, Tony Mangan (DPS)

I. Call to Order and Roll Call

The meeting was called to order at 9:03a.m. CDT by Ruffledt. Roll call was taken and a quorum was present.

II. Approval of Agenda

Motion to approve the meeting agenda with change noted.

Moved by: Lee Seconded by: Haines

Discussion: None.

Vote: 8 yeas, 0 nays. Motion Carried unanimously.

III. Approval of Meeting Minutes

Motion to approve the June 5, 2018 meeting minutes with edits noted.

Moved by: Reinsech Seconded by: Kippley

Discussion: None.

Vote: 8 yeas, 0 nays. Motion Carried unanimously.

IV. Board Member Terms

DeNeui and Kippley have been reappointed to another 3 year term with the board effective July 1. Pam Bryan with AT&T has been appointed to the service provider seat vacated by Jody Sawvell.

V. NG911 Project Updates

Steve Harding joined the meeting at 9:10am.

Rechtenbaugh sent out a milestone document showing the events and processes leading up to date on the rural carrier issue. Howell reported the main issue is a disagreement between Comtech and SDTA (rural carriers). Rural carriers say it is Comtech’s responsibility to come to their service area to make connection to the ESInet. Comtech says it is the responsibility of the rural carriers to come to the POIs to access their network. Howell narrated the milestone document.

- 2015 in NextGen applied for CLEC status with PUC.
- 2-9-17 and 5-3-17 We withheld \$259,000 payment related to service and deployment of the statewide phone system.

- 10-19-17 Board meeting. Board direction to file a request for declaratory action with PUC. SDTA, NextGen attended the meeting and supporting the filing.
- 10-27-17 Board filed request for declaratory action at the PUC: *Petitions the Commission to issue a declaratory ruling determining who has responsibility for 911 traffic transport between rural carriers' service areas and the Next Generation 911 network's centralized points of interconnection.*
- 12-14-17 Board meeting. Update board on scheduling for our PUC request.
- 12-19-17 SDTA files comments on our docket. NextGen files comments as well.
- 1-12-18 We file reply comments.
- 1-16-18 SDN files response comments to NextGen's claims.
- 1-16-18 SDTA files response comments as well.
- 1-16-18 NextGen files response comments.
- 1-16-18 PUC staff file reply comments.
- Next 8-10 weeks are spent trying to get all parties to agree to a schedule.
- 4-10-18 NextGen requests our support to delay 4/20-18 PUC hearing. We decline.
- 4-16-18 NextGen filed motion to dismiss our docket.
- 4-18-18 We file opposition to NextGen motion to dismiss our docket.
- 4-19-18 SDN and SDTA file opposition to NextGen's motion to dismiss.
- 4-20-18 – PUC dismissed the docket via their own motion saying they were not prepared to answer and thought we would work it out on our own.
- 4-26-18 – Board meeting to discuss options and hear recommendation.
- 5-3-18 – Board meeting. The Board's next direction was threefold:
 - A letter to NextGen requesting that they: (Sent 5-11-18, copy provided)
 - file bona fide requests under the statute
 - provide a breakdown of the monthly recurring fee
 - provide a satisfactory project plan
 - Try to intervene in the original certification proceeding
 - We discovered that file was closed and this option wasn't pursued
 - File a new, narrower declaratory action.
- 5-11-18 – Letter sent to NextGen (copy provided via email)
- 5-11-18 – We submitted new narrower declaratory action to PUC. (copy provided via email) *We petition the Commission to issue a declaratory ruling determining if bona fide requests are required prerequisites under SD law in order to determine whether or not RLEC exemptions apply when a CLEC requests delivery of 9-1-1 traffic from an RLEC, assuming voluntary agreements are not feasible.*
- 5-30-18 NextGen replied to Board letter. (copy provided via email)
- 6-15-18 NextGen filed comments on our docket and makes Motion to Dismiss. (copy provided via email)
- 6-26-18 – PUC meeting
 - PUC denied NextGen's Motion to Dismiss.
 - PUC voted unanimously to declare that when a CLEC is requesting delivery of 9-1-1 traffic from a RLEC it must submit a bona fide request for interconnection as contemplated in both state and federal law and file a copy with the PUC.
- 6-29-18 NextGen filed an objection to the PUC Order.
- 7-23-18 Receive information about NextGen comments filed with FCC referencing our project, the dispute in front of the PUC, and our contract.
- 7-25-18 Board Meeting
- 7-26-18 Upcoming PUC meeting to hear NextGen's objection to the PUC ruling.

Rufledt reminded the board that the payment withholdings in 2017 were related to service concerns with the deployment of the CPE by Comtech and not related to the carrier issues. Rechtenbaugh confirmed and mentioned it was only included as a reminder of previous action of the board.

Howell continued, saying once the CLEC (Comtech) files bona fide requests for interconnection, then the discovery period can begin. After the discovery process, the PUC determines if it is technically feasible and if it is unduly burdensome. All parties have agreed that it is technically feasible for 9-1-1 traffic. The next PUC board meeting is tomorrow (July 26th). SDTA, Comtech, and Board have been told they will have will have 5 minutes to speak. Comtech has already stated, through Kara Semler that they will appeal to the Circuit Court.

Late Monday, Rechtenbaugh was made aware that Comtech filed comments asking FCC to rule on our issue brought to the SD PUC. Comtech claimed the PUC doesn't have a way to rule on it. They neglected to report in their comments that in fact there was a state process and the PUC had ruled that state law applied. They stated there were several contract issues between Comtech and the state. In Howel's opinion the board needs to discuss this new action.

Rufledt asked the Board if they had any questions before he looks for a motion to move to executive session. McPeek asked how many RLECs this included and asked if they have representation at the PUC meetings? Rufledt reported there were approximately 15-17 RLECs and they are represented in these proceedings by SD Telecommunications Association.

Rufledt asked Rechtenbaugh to go over the process for executive session. Rechtenbaugh recommended the motion maker include staff and technical support personnel in executive session along with the board members. Rechtenbaugh will send the private bridge number to the people included in executive session. The public bridge will remain open during executive session for everyone else to remain and wait for the board to return. The board cannot take action in executive session. Any action would need to be taken once the public meeting resumes.

VI. Executive Session

Motion: To go into Executive Session to consult with legal counsel about possible litigation and contractual matters per SDCL 1-25-2 (3). Including board members, staff (Shawnie, Maria, Jenna, Arin), and technical consultants (Sara, Joel, Wendy).

Moved by: Haines Seconded by: Harding

Discussion: None

Vote: 9 yeas, 0 nays. Motion carried unanimously.

The board went into Executive Session at 9:32am via a separate calling bridge. The public bridge remains open. The board came out of Executive Session and rejoined the public calling bridge at 11:07am Central Time. Harding did not rejoin the public bridge due to another commitment. Roll call was taken: Bryan, Haines, Kippley, McPeek, Miller, Reinesch, Rufledt, Serr. Others present were: Shawnie Rechtenbaugh, Maria King, Jenna Howell, Arin Diedrich, Sara Weston, Wendy Day, and Joel McCamley.

Rechtenbaugh reported based on all that has happened to this point, staff and the administrative subcommittee recommend the following steps for consideration by the board:

- Direct Comtech to discontinue efforts to connect the carriers in the POIs.
- Direct Comtech to discontinue efforts to transition the carriers ALI.

Pursuant to state law, we will not take any action on this recommendation at this meeting. Rechtenbaugh advised the board would be able to take action at the next regularly scheduled meeting in August. Ruffedt mentioned if any board members have questions later, they are welcome to reach out to any member of the admin sub-committee or members or staff.

Howell requested the board authorize reply comments be submitted to the FCC. The comments would focus on making sure the FCC is aware we do not agree with the comments submitted by Comtech and make them aware of the current ruling by our PUC. She would not intend to address their comments about the contract.

Motion: Authorize Howell to submit reply comments to the FCC after the administrative subcommittee reviews them.

Moved by: Kippley Seconded by: Reinesch

Discussion: None

Vote: 7 yeas, 0 nays. Haines did not vote as she had to leave the phone during the motion to tend to other business.

Ruffedt asked for board member thoughts about doing a high level phone calls with Comtech admin to ask why or what their strategy is with their actions on the rural carrier issue. The call could include the admin committee and top people within Comtech. Rechtenbaugh commented she thought upper admin of Comtech are fully aware of the current issues and the work of Comtech's attorney at both the PUC and FCC. Serr asked legal counsel if she thought the meeting was a good idea. Howell stated the board could ask Comtech to explain their plan. She noted we would need to be careful about specifics on our arguments. Ruffedt comments he is not interested in an argumentative call. He wants to talk facts and share our concerns.

VII. Contract Amendment

There will be a needed contract amendment at the next board meeting to cover the state costs related to the Pennington Back up PSAP.

VIII. Other Business

Next regular board meeting in scheduled for August 9, 2018 which is the day Rechtenbaugh returns from APCO and is during the Sturgis Motorcycle Rally. Rechtenbaugh proposed Thursday, August 23rd.

Rechtenbaugh will send out an updated invite to the board.

IX. Public Comment

There was no public comment.

X. Adjourn

Motion to adjourn the meeting.

Moved by: Haines Seconded by: McPeek

Discussion: None

Vote: 8 yeas, 0 nays. Motion Carried unanimously. Meeting adjourned at 11:36a.m. Central Time.