

**BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

Application of Ubiquity South Dakota, LLC) for a Certificate of Public Convenience and) Necessity to Operate as a Facilities-Based) and Resale Competitive Local and) Interexchange Carrier of Telecommunications) Services with the State of South Dakota))	Docket No. _____
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APPLICATION OF UBIQUITY SOUTH DAKOTA, LLC

Ubiquity South Dakota, LLC (“Ubiquity” or “Applicant”), by its undersigned counsel and pursuant to 20:10:32:03 and 20:10:24:02 of South Dakota Public Utilities Commission (“Commission”) Administrative Rules (S.D. Admin. Rules), applies for a Certificate of Authority (“Certificate”) to operate as a wholesale provider of competitive local and interexchange services throughout the state of South Dakota. Applicant does not seek to provide retail voice telecommunications services nor switched access services. Applicant may seek interconnection agreements with incumbent local exchange carriers and wholesale telecommunications contracts to supplement Ubiquity’s ability to provide services.

The Applicant submits the following information in support of its request:

- 1) The applicant’s name, address, telephone number, facsimile number, web page URL, and email address;

Response:

Ubiquity South Dakota, LLC
 121 W. Trade St. Suite 1275
 Charlotte, NC 28202
 Telephone Number: (847) 404-2067
 Web Page URL: ubiquitygp.com
 Email: legal@ubiquitygp.com

- 2) A description of the legal organization structure of the applicant’s company;

Response: Applicant is duly authorized limited liability company organized under the laws of Delaware. A copy of the Applicant's formation documents is attached as Exhibit A.

- 3) The name under which applicant will provide local exchange services if different than in subdivision (1) of this section;

Response: Applicant will provide services under the name Ubiquity South Dakota, LLC

- 4) The location of the applicant's principal office, if any, in this state and the name and the address of its current registered agent, if applicable;

Response: Applicant does not maintain an office or personnel within the State of South Dakota. Responsibility for South Dakota operations will be handled by Applicant's current management team. Applicant's registered agent in South Dakota is:

Corporation Service Company
503 South Pierre Street
Pierre, SD 57501

- 5) A copy of its certificate of authority to transact business in South Dakota from the Secretary of State;

Response: Applicant's Certificate of Authority to transact business as a foreign limited liability company in South Dakota is attached as Exhibit B.

- 6) A description of the applicant's experience providing any telecommunications services in South Dakota or in other jurisdictions, including the types of services provided, and the dates and nature of state or federal authorization to provide the services;

Response: Ubiquity South Dakota has not operated in South Dakota or any other state and has not sought federal authority to provide telecommunications services.

- 7) Names and addresses of applicant's affiliates, subsidiaries, and parent organizations, if any;

Response: Please see Confidential Exhibit E for a list of Applicant's affiliate, subsidiaries, and parent organization.

- 8) A list and specific description of the types of services the applicant seeks to offer and how the services will be provided including:

- a. Information indicating the classes of customers the applicant intends to service;

Response: Ubiquity's wholesale services will be offered to internet service providers who will in turn provide service to end users.

- b. Information indicating the extent to and time-frame by which applicant will provide service through the use of its own facilities, the purchase of unbundled network elements, or resale;

Response: Ubiquity will provide intracity/intrastate services over its fiber optic network. The network will be designed in a hub and spoke configuration with fiber facilities installed from a central connection point to individual homes and small/medium businesses that other providers may use to provide end user services. This hub and spoke design provides redundancy and thereby increases reliability. Ubiquity South Dakota intends to commence operations as soon as it is granted authority and anticipates that will be no later than September 30, 2024.

- c. A description of all facilities that the applicant will utilize to furnish the proposed local exchange services, including any facilities of underlying carriers, and

Response: Ubiquity will be primarily building new facilities but anticipates it will be able to install on existing utility poles through pole attachment agreements for roughly 30% of its overall network.

- d. Information identifying the types of services it seeks authority to provide by reference to the general nature of the service.

Response: Ubiquity provides open-access networks allowing for multiple wholesale customers to utilize its network for providing broadband, VoIP and/or IPTV services to end user customers.

- 9) A service map or narrative description indicating with particularity the geographic area proposed to be served by the applicant;

Response: Applicant seeks authority to provide its services throughout the State of South Dakota.

- 10) Information regarding the technical competence of the applicant to provide its proposed local exchange services including:

- a. A description of the education and experience of the applicant's management personnel who will oversee the proposed local exchange services; and

Response: Applicant has the managerial and technical qualifications necessary to provide the proposed services in South Dakota. Applicant's management team has extensive telecommunications business, technical, and managerial expertise. Resumes of key personnel of Applicant are provided in Confidential Exhibit C. These biographies demonstrate management's substantial communications industry experience and expertise developed operating a variety of communications services across multiple jurisdictions. Applicant anticipates drawing upon management and technical personnel from its parent or affiliates, but also may supplement with outside consultants as needed. Thus, Applicant possesses the managerial and technical qualifications necessary to operate a competitive telecommunications company in South Dakota, consistent with the Commission's requirements.

- b. Information regarding policies, personnel, or arrangements made by the applicant which demonstrates the applicant's ability to respond to customer complaints and inquiries promptly and to

perform facility and equipment maintenance necessary to ensure compliance with any commission quality of service requirements;

Response: Customers may contact customer support at (866) 438-3884 or send email to legal@ubiquitygp.com for any service issue. The applicant will perform network and equipment maintenance necessary to ensure compliance with any quality of service requirements. The applicant will comply with all applicable Commission rules, regulations, and standards, and will provide high quality telecommunications services in South Dakota.

- 11) Information explaining how the applicant will provide customers with access to emergency services such as 911 or enhanced 911, operator services, interexchange services, directory assistance, and telecommunications relay services;

Response: Because Applicant will provide non-switched services, it will not provide a 911 plan.

- 12) For the most recent 12-month period, financial statements of the applicant consisting of balance sheets, income statements, and cash flow statements. The applicant shall provide audited financial statements, if available;

Response: Applicant is submitting preliminary audited financials for parent company of Generate-Ubiquity Holdings, LLC.

Please see Confidential Exhibit D Financials.

- 13) Information detailing the following matters associated with interconnection to provide proposed local exchange services;
- a. The identity of all local exchange carriers with which the applicant plans to interconnect;

Response: Ubiquity South Dakota, LLC is not currently negotiating any interconnection agreements but may do so in the future once service areas are identified and designed.

- b. The likely timing of initiation of interconnections service and a statement as to when negotiations for interconnection started or when negotiations are likely to start; and

Response: Ubiquity South Dakota, LLC is not currently negotiating any interconnection agreements but may do so in the future once service areas are identified and designed.

- c. A copy of any request for interconnection made by the applicant to any local exchange carrier.

Response: Ubiquity South Dakota, LLC is not currently negotiating any interconnection agreements but may do so in the future once service areas are identified and designed.

- 14) A description of how the applicant intends to market its local exchange services, its target market, whether the applicant engages in multilevel marketing, and copy of any company brochures that will be used to assist in sale of the services;

Response: Ubiquity is building a full suite fiber-to-the-premise network which will be marketed to its wholesale customers. Ubiquity will provide information to wholesale customers regarding the quantity of available serviceable addresses as the project progresses.

- 15) If the applicant is seeking authority to provide local exchange service in the service area of a rural telephone company, the date by which the applicant expects

to meet the service obligations imposed pursuant to § 20:10:32:15 and applicant's plans for meeting the service obligations;

Response: Ubiquity's initial projects are not being proposed within rural telephone company territories.

- 16) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

Response: Ubiquity South Dakota is not registered or certified to provide telecommunications services in any state. Applicant has never been denied registration or certification in any state.

- 17) The names, addresses, telephone numbers, E-mail addresses, and facsimile numbers of the applicant's representatives to whom all inquiries must be made regarding customer complaints and other regulatory matters;

Response: Correspondence concerning the Application should be directed to Applicant's attorney:

Anita Taff-Rice
iCommLaw
1547 Palos Verdes, #298
Walnut Creek, CA 94597
Telephone: (415) 699-7885
Email: anita@icommlaw.com

Applicant's primary contact for regulatory matters and customer services is:

Sonny Nunez
121 W. Trade St. Suite 1275
Charlotte, NC 28202
Telephone: 866-438-3884
Email: legal@ubiquitygp.com

- 18) Information concerning how the applicant plans to bill and collect charges from customers who subscribe to its proposed local exchange services;

Response: Applicant's wholesale customers will be billed through an industry recognized program to capture all the various fees, taxes and service provided.

- 19) Information concerning the applicant's policies relating to solicitation of new customers and a description of the efforts the applicant shall use to prevent the unauthorized switching of local service customers by the applicant, its employees, or agents;

Response: Applicant will provide wholesale service to other providers and therefore no program is required to prevent unauthorized switching of end user customers. Applicant's wholesale customers will be responsible for solicitation and compliance with all rules and regulations for signing up new customers and end user agreements.

- 20) The number and nature of complaints filed against the applicant with any state or federal commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered;

Response: Applicant has not been the subject of complaints for the unauthorized switching of a Customer's telecommunications provider nor for charging Customers for services that were not ordered.

21) Information concerning how the applicant will make available to any person information concerning the applicant's current rates, terms, and conditions for all of its telecommunications services;

Response: Applicant's rates and terms will be provided to all wholesale customers on a non-discriminatory basis.

22) Information concerning how the applicant will notify a customer of any materially adverse change to any rate, term, or condition of any telecommunications service being provided to the customer. The notification must be made at least thirty days in advance of the change;

Response: Applicant expects to provide services pursuant to contracts, which frequently have multi-year terms. Therefore, it is unlikely that there would be any adverse change to a rate, term or condition for services. If however, Applicant has a contractual right to revise rates, terms or conditions in a manner adverse to the customer, it would follow the notice and other applicable terms in the contract. Notice of material changes to a contract typically require 30 days advance notice.

23) A written request for waiver of those rules believed to be inapplicable;

Response: Applicant will not be providing traditional switched local exchange and voice services to end users, therefore Applicant respectfully requests a waiver of S.D. Admin. Rule 20:10:32:10, which requires that South Dakota local exchange carriers make the following services available to their customers (1) access to the public switched telephone network; (2) access to emergency services such as 911 or enhanced 911; (3) access to a local directory and directory assistance; (4) access to operator services; (5) telecommunications relay service capability or access necessary to comply with state and federal regulations; (6) non-published service upon written request or verbal request of the customer; and (7) access to interexchange services

Applicant will not be competing directly with rural telephone companies to provide end-user local exchange services and requests waiver of the service obligations imposed pursuant to § 20:10:32:15.

Applicant will not be providing pre-paid services and requests a waiver of any requirements applicable to pre-paid services.

24) Federal tax identification number and South Dakota sales tax number, and

Response: Applicant FEIN is 99-0808158 and Applicant's sales tax number is not applicable per South Dakota Department of Revenue. Ubiquity will register for excise taxes.

25) Other information requested by the commission needed to demonstrate that the applicant has sufficient technical, financial, and managerial capabilities to provide the local exchange services it intends to offer consistent with the requirements of this chapter and other applicable rules and laws.

Response: Granting this Application will promote the public interest by increasing competition in the provision of telecommunications services in South Dakota. Applicants expertise in the telecommunications sector will permit it to select the most economic and efficient services, thereby providing customers with a better combination of price, quality, and customer service than other carriers. Accordingly, Ubiquity anticipates its proposed service will provide subscribers with better quality services and will increase consumer choice of innovative, diversified, and reliable service offerings.

Applicant has the requisite financial, managerial and technical capability to provide local exchange and interexchange services. It is in the public interest to authorize competitive local exchange and interexchange carriers to offer

alternatives to the incumbent companies' service offerings. Applicant's entry will not unreasonably prejudice or disadvantage any telephone service provider and will be in the public interest.

Respectfully submitted this 26th day of April 2024.

Respectfully submitted,

By: /s/Anita Taff-Rice
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Walnut Creek, CA 94597
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