

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT)
FILED BY SPRINT COMMUNICATIONS)
COMPANY, LP AGAINST NATIVE) Docket No. TC10-026
AMERICAN TELECOM, LLC)
REGARDING TELECOMMUNICATIONS)
SERVICES)

**Respondent Native American Telecom LLC's Response to Sprint Communications
Company L.P.'s Motion for Leave to File a Supplemental Reply to
NAT's Reply Brief, or to Strike**

INTRODUCTION

Respondent Native American Telecom, LLC (NAT) hereby files its *Response to Sprint Communications Company L.P.'s Motion for Leave to File a Supplemental Reply to NAT's Reply Brief, or to Strike*, in this matter.

DISCUSSION OF LAW

I. THIS COMMISSION SHOULD DENY SPRINT'S MOTION

On November 15, 2010, the South Dakota Public Utilities Commission's (SDPUC or Commission) "Staff Brief" was filed in this matter. This Staff Brief recommends that the Commission grant NAT's Motion to Stay "thereby permitting either the tribal court or the federal district court to resolve questions of its jurisdiction regarding Sprint first." (Staff Brief, page 7).

The parties have exhaustively briefed the "tribal exhaustion" issue to this Commission. A further submission by Sprint is simply unnecessary. In its *Reply to Staff Brief*, NAT agreed with the SDPUC's Staff Brief that "the Commission should take a pragmatic approach to this matter as it relates to the tribal exhaustion doctrine." As such, NAT respectfully requested that the Commission adopt its Staff's recommendation and grant NAT's "Motion to Stay."

Sprint's *Reply to Staff Brief* encompasses the same facts and issues as does NAT's *Reply to Staff Brief*. Both parties' respective *Reply to Staff Brief* reference the Honorable Karen E. Schreier's decision that Congress has preempted tribal court jurisdiction for *interstate* tariff claims brought under 47 U.S.C. § 207. Both parties' respective *Reply to Staff Brief* addresses the significance of Judge Schreier's decision on the pending case before this Commission. Both parties' respective *Reply to Staff Brief* addresses the impact of the *Montana* exceptions on NAT's Motion to Dismiss. Both parties' respective *Reply to Staff Brief* addresses the applicability of SDCL § 49-13-1.1.

NAT's *Reply to Staff Brief* is not improper and, in fact, addresses the identical issues as does Sprint's *Reply to Staff Brief*.

CONCLUSION

For the foregoing reasons, NAT requests that this Commission deny Sprint's Motion for Leave to File a Supplemental Reply to NAT's Reply Brief, or to Strike.

Dated this 10th day of January, 2011.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on *January 10th, 2011*, the foregoing "*Respondent Native American Telecom LLC's Response to Sprint Communications Company L.P.'s Motion for Leave to File a Supplemental Reply to NAT's Reply Brief, or to Strike,*" was served via *electronic mail*, upon the following:

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