

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN RE:

Case No. TC10-26

SPRINT COMMUNICATIONS
COMPANY L.P.,

Complainant,

v.

NATIVE AMERICAN TELECOM, LLC,

Respondent.

**SPRINT COMMUNICATIONS
COMPANY L.P.'S OPPOSITION TO
NAT'S MOTION TO STAY AND
SPRINT'S MOTION TO ESTABLISH
BRIEFING SCHEDULE**

Comes now Sprint Communications Company L.P. ("Sprint"), by and through its undersigned counsel, and submits this Opposition to NAT's Motion to Stay and further submits this Motion to Establish Briefing Schedule. For its Opposition and Motion, Sprint states:

1. Sprint filed the Amended Complaint in this matter against respondent, Native American Telecom, LLC ("NAT"), on May 5, 2010.
2. NAT filed a Motion to Dismiss on June 1, 2010. NAT did not file a brief in support of the Motion to Dismiss, but rather, filed a concurrent Motion to Establish Briefing Schedule.
3. On June 17, 2010, the Public Utilities Commission ("PUC" or "Commission") issued an Order granting petitions to intervene and directing the parties to work with the PUC staff to establish a procedural schedule to address NAT's Motion to Dismiss.
4. The parties began discussing a briefing schedule in early July and came to agreement that briefs in support of any motions to dismiss should be filed no later than

August 23, 2010 and that responsive briefs would be filed no later than September 23, 2010. Thereafter, Staff would reply to all of the briefs and the parties would have an opportunity to respond in writing to Staff's submission.

5. Before this briefing schedule could be formalized with the Commission, on July 7, NAT initiated an action against Sprint in Crow Creek Tribal Court and on July 29, 2010, filed a Motion to Stay in this docket.

6. At NAT's request, the parties held a conference call on August 3, 2010, to discuss the briefing schedule in light of NAT's Motion to Stay. NAT proposes to delay briefing on the Motions to Dismiss so that the Commission can first rule on the newly filed Motion to Stay. Sprint believes that the issues involved in both the Motions to Dismiss and Motion to Stay are intertwined and that briefing should proceed on both simultaneously so as not to further delay a decision on the merits of this case. The parties were unable to reach agreement on a briefing schedule.

7. Sprint opposes NAT's Motion to Stay and any attempts by NAT to delay a ruling by the Commission on Sprint's complaint. The Commission has primary jurisdiction and regulatory authority over intrastate telecommunications services, and NAT must file a tariff with the PUC to lawfully charge for intrastate services, at least with respect to services to non-tribal members. The PUC should not, as now proposed by NAT, take a back seat to a tribal court in determining the extent of PUC regulatory authority anywhere within the state. Sprint contends that this is an important issue where the PUC should assert its jurisdiction without waiting to see how a tribal court rules.

8. In light of the foregoing, Sprint moves the Commission for an Order establishing a joint briefing schedule on both the Motions to Dismiss and on the Motion to Stay as follows:

a. Briefs in support of Motions to Dismiss and Motion to Stay to be filed no later than August 23, 2010.

b. Briefs in opposition to Motions to Dismiss and Motion to Stay to be filed no later than September 23, 2010.

c. Staff brief in response to be filed no later than October 15, 2010.

d. Replies to Staff brief to be filed no later than October 29, 2010.

9. Although Sprint opposes any further delay in the briefing schedule on the Motions to Dismiss, in the event that the Commission determines that briefing on the Motion to Stay should proceed in advance of briefing on the Motion to Dismiss, Sprint proposes the following briefing schedule for the limited Motion to Stay issue:

a. Briefs in support of Motion to Stay to be filed no later than August 23, 2010.

b. Briefs in opposition to Motion to Stay to be filed no later than September 10, 2010.

c. Staff brief in response to be filed no later than September 24, 2010.

d. Replies to Staff brief to be filed no later than October 1, 2010.

CONCLUSION

Sprint respectfully requests that the Commission establish a briefing schedule as set forth above, combining the briefing schedule on both the Motions to Dismiss and the Motion to Stay.

Dated at Sioux Falls, South Dakota, this 3rd day of August, 2010.

DAVENPORT, EVANS, HURWITZ &
SMITH, L.L.P.

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CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Complainant Sprint Communications Company L.P., hereby certifies that a true and correct copy of the foregoing "SPRINT COMMUNICATIONS COMPANY L.P.'S OPPOSITION TO NAT'S MOTION TO STAY AND SPRINT'S MOTION TO ESTABLISH BRIEFING SCHEDULE" was served via e-mail upon the following:

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Dated at Sioux Falls, South Dakota, this 3rd day of August, 2010.

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