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August 5, 2010

Ms. Patricia Van Gerpen  
SD Public Utilities Commission  
500 E. Capitol Ave.  
Pierre, SD 57501

Re: Sprint Communications Company v. Native American Telecom, LLC  
Docket TC 10-26


Dear Ms. Van Gerpen:

Attached for electronic filing, please find Opposition of SDN, SDTA, and Midstate to NAT's Motion to Stay and Support of Sprint's Motion to Establish Briefing Schedule.

If you have any questions, please contact me.

Very truly yours,

RITER, ROGERS, WATTIER &  
NORTHROP, LLP

By:   
Darla Pollman Rogers

DPR-wb

Enclosure

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN RE: )  
)  
SPRINT COMMUNICATIONS COMPANY, )  
L.P., )  
)  
Complainant, )  
) Docket No. TC10-26  
vs. )  
)  
NATIVE AMERICAN TELECOM, LLC, )  
)  
Respondent. )

**OPPOSITION OF SDN, SDTA, AND MIDSTATE TO NAT'S MOTION TO STAY AND  
SUPPORT OF SPRINT'S MOTION TO ESTABLISH BRIEFING SCHEDULE**

COME NOW, South Dakota Network, LLC ("SDN"), South Dakota  
Telecommunications Association ("SDTA"), and Midstate Communications (collectively  
"Intervening Parties"), by their undersigned counsel, and hereby file this Opposition to Native  
American Telecom's ("NAT") Motion to Dismiss filed on July 29, 2010, and Support of Sprint's  
Motion to Establish a Briefing Schedule filed August 3, 2010 ("Sprint Motion").

1. Sprint filed an Amended Complaint against NAT in this docket on May 5, 2010,  
wherein Sprint sought, among other things, a declaratory ruling that the South Dakota Public  
Utilities Commission ("Commission") has sole authority to regulate Sprint's intrastate  
interexchange services in South Dakota, and that the Crow Creek Sioux Tribe Utility Authority  
lacks jurisdiction over Sprint.

2. SDTA sought to intervene in the docket on May 20, 2010, on the grounds that the  
various jurisdictional and Commission authority issues raised in Sprint's Complaint are issues  
that are of interest to and that stand to affect numerous SDTA members. SDN filed a petition to  
intervene on May 21, 2010, not only because the jurisdictional and Commission authority issues

raised in Sprint's Complaint will affect SDN and its member companies, but also because of the potential impact of any Commission decisions in this docket on Docket TC09-098 (SDN complaint against Sprint). Midstate also filed a Petition to Intervene on the same grounds as SDTA, and from the perspective of an incumbent LEC on the Crow Creek Reservation.

3. NAT filed a Motion to Dismiss on June 1, 2010, and concurrently, filed a Motion to Establish Briefing Schedule.

4. On June 17, 2010, the Commission granted Intervening Parties' Petitions to Intervene, and directed the parties to work with Staff to establish a procedural schedule to address NAT's Motion to Dismiss.

5. The parties discussed a briefing schedule and agreed that briefs in support of NAT's Motion to Dismiss should be filed by August 23, 2010; responsive briefs should be filed by September 23, 2010; Staff would reply to all briefs; and the parties would have an opportunity to respond in writing to Staff's filing.

6. On July 7, 2010, NAT filed an action against Sprint in Crow Creek Tribal Court, and NAT filed a Motion to Stay in this docket on July 29, 2010.

7. At NAT's request, some of the parties participated in a conference call on August 3, 2010, to engage in further discussions of the briefing schedule. NAT advocates submitting a brief on the Motion to Stay only, based on the doctrine of tribal court exhaustion, and to complete that round of briefing and allow the Commission to rule on that motion first, rather than including the Motion to Dismiss in the same briefing schedule. Sprint advocates that briefs should be submitted on both the Motions simultaneously, as the issues involved in both motions are intertwined, and separate briefing schedules for the two pending motions would delay a

decision on the merits of this docket. The parties were unable to reach agreement on a briefing schedule.

8. Intervening Parties concur with Sprint (a) in its opposition to NAT's Motion to Stay, and (b) that NAT's proposal that the Commission consider the motions separately, and the Motion to Stay first, will unnecessarily delay this docket. Intervening Parties also concur with Sprint's position that the Commission has primary jurisdiction and regulatory authority over intrastate telecommunications services, and that the Commission should not take a back seat to a tribal court in determining the extent of Commission regulatory authority anywhere within the state of South Dakota.

9. Furthermore, as noted by Sprint, the issues raised in both motions are intertwined. In its Motion to Dismiss, NAT contends that the Commission lacks subject matter and personal jurisdiction over NAT; that Sprint's Complaint was not filed in proper venue; that Crow Creek Tribal Utility Authority and/or Tribal Court has exclusive jurisdiction over the subject matter of the Complaint; and that the Tribe or the Tribal Utilities Commission has sovereign immunity over NAT. In its Motion to Stay, NAT relies upon previously submitted pleadings, which would include the Motion to Dismiss, and asserts the doctrine of tribal court exhaustion. For purposes of procedural efficiency, Intervening Parties support Sprint's proposed joint briefing schedule on both NAT's Motion to Dismiss and Motion to Stay, thereby combining the briefing on these issues.

10. Intervening Party SDN also reiterates its concern that any delays in this docket could result in delays in Docket TC09-098.

Respectfully submitted this 5<sup>th</sup> day of August, 2010.

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#### CERTIFICATE OF SERVICE

I, Darla Pollman Rogers, certify that the above document was emailed to the following on the 5<sup>th</sup> day of August, 2010:

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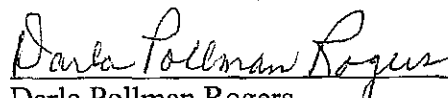
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