

# SWIER LAW FIRM, PROF. LLC

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SCOTT R. SWIER

June 1, 2010

Ms. Patty Van Gerpen, Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

RE: *In the Matter of the Complaint Filed by Sprint Communications  
Company, LP Against Native American Telecom, LLC Regarding  
Telecommunications Services  
(SDPUC Docket No. TC10-026)*

Dear Ms. Van Gerpen:

Enclosed for filing in this matter, please find the following documents:

1. Respondent Native American Telecom, LLC's Motion to Dismiss; and
2. Respondent Native American Telecom, LLC's Motion to Establish Briefing Schedule for Respondent's Motion to Dismiss.

By copy of same, counsel and the unrepresented parties (if any) have been served.

If you have any questions, please feel free to contact our office.

Thank you.

Sincerely,

/s/ Scott R. Swier

Scott R. Swier

SRS/ce

Enclosures

cc: Service List  
Native American Telecom, LLC

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

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

**Respondent Native American Telecom, LLC's Motion to Dismiss**

Respondent Native American Telecom, LLC, ("Native American Telecom"), by its undersigned attorney, and pursuant to SDCL § 15-6-12(b) and ARSD 20:10:01:11.01, respectively moves the South Dakota Public Utilities Commission to dismiss Sprint Communications Company, L.P.'s ("Sprint") Amended Complaint in this case. In support thereof, Native American Telecom states as follows:

1. Sprint's Amended Complaint should be dismissed on the grounds that it fails to state a claim upon which relief can be granted by the South Dakota Public Utilities Commission. (SDCL § 15-5-12(5)).
2. Sprint's Amended Complaint should be dismissed on the grounds that the South Dakota Public Utilities Commission lacks jurisdiction over the subject matter alleged in Sprint's Amended Complaint. (SDCL § 15-6-12(1)).
3. Sprint's Amended Complaint should be dismissed on the grounds that the South Dakota Public Utilities Commission lacks personal jurisdiction over Native American Telecom. (SDCL §15-6-12(2)).
4. Sprint's Amended Complaint should be dismissed on the grounds that Sprint has filed its Amended Complaint in an improper venue.

5. Sprint's Amended Complaint should be dismissed on the grounds that the Crow Creek Sioux Tribe Utility Authority and/or Crow Creek Sioux Tribe's Tribal Court has exclusive jurisdiction over the subject matter of Sprint's Amended Complaint.
6. Sprint's Amended Complaint should be dismissed on the grounds of sovereign immunity of the Crow Creek Sioux Tribe and/or Crow Creek Sioux Tribe Utility Authority.

WHEREFORE, for the above-referenced reasons, Native American Telecom requests that Sprint's Amended Complaint be dismissed with prejudice to re-filing.

Dated this 1<sup>st</sup> day of June, 2010.

SWIER LAW FIRM, PROF. LLC

/s/ Scott R. Swier

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*Attorney for Native American Telecom, LLC*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on *June 1<sup>st</sup>, 2010*, a true and correct copy of the foregoing *Respondent Native American Telecom, LLC's Motion to Dismiss* was served *electronically and/or by United States First Class mail* upon:

Ms. Patty Van Gerpen  
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South Dakota Public Utilities Commission  
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Gina Howe  
Crow Creek Sioux Tribe Utility Authority  
Crow Creek Sioux Reservation  
Fort Thompson, S.D. 57339

*/s/ Scott R. Swier* \_\_\_\_\_

**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 Motion to Establish  
Briefing Schedule for Respondent's Motion to Dismiss**

Respondent Native American Telecom, LLC, ("Native American Telecom"), by its undersigned attorney, respectively moves the South Dakota Public Utilities Commission to establish a briefing schedule for Native American Telecom's Motion to Dismiss in this case.

In support thereof, Native American Telecom states as follows:

1. Native American Telecom's Motion to Dismiss is based, in part, on highly complex federal, state, and tribal jurisdictional issues. For the convenience of the South Dakota Public Utilities Commission, each party should be provided with a full and fair opportunity to submit reasoned and well-crafted briefs articulating their respective positions regarding these complex jurisdictional issues.

WHEREFORE, for the above-referenced reasons, Native American Telecom requests that the South Dakota Public Utilities Commission establish a briefing schedule for Native American Telecom's Motion to Dismiss.

Dated this 1<sup>st</sup> day of June, 2010.

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/s/ Scott R. Swier  
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*Attorney for Native American Telecom, LLC*

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that on *June 1<sup>st</sup>, 2010*, a true and correct copy of the foregoing *Respondent Native American Telecom, LLC's Motion to Establish Briefing Schedule for Respondent's Motion to Dismiss* was served *electronically and/or by United States First*

*Class mail upon:*

Ms. Patty Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
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1. Native American Telecom's Motion to Dismiss is based, in part, on highly complex federal, state, and tribal jurisdictional issues. For the convenience of the South Dakota Public Utilities Commission, each party should be provided with a full and fair opportunity to submit reasoned and well-crafted briefs articulating their respective positions regarding these complex jurisdictional issues.

WHEREFORE, for the above-referenced reasons, Native American Telecom requests that the South Dakota Public Utilities Commission establish a briefing schedule for Native American Telecom's Motion to Dismiss.

Dated this 1<sup>st</sup> day of June, 2010.

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*/s/ Scott R. Swier* \_\_\_\_\_

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*Attorney for Native American Telecom, LLC*

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*Class mail* upon:

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Executive Director  
South Dakota Public Utilities Commission  
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