

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE
APPLICATION OF NATIVE
AMERICAN TELECOM, LLC FOR A
CERTIFICATE OF AUTHORITY TO
PROVIDE LOCAL EXCHANGE
SERVICE WITHIN THE STUDY AREA
OF MIDSTATE COMMUNICATIONS,
INC.

Docket No. TC11-087

**PETITION TO INTERVENE OF
SPRINT COMMUNICATIONS
COMPANY L.P.**

INTRODUCTION

Sprint Communications Company L.P. ("Sprint") petitions the Commission for leave to intervene in the above-captioned proceeding, according to SDCL § 1-26-17.1 and A.R.S.D. 20:10:01:15:02 and 20:10:32:03.

1. Sprint is a limited partnership with its principal place of business at 6200 Sprint Parkway, Overland Park, Kansas. It is authorized to do business in South Dakota.

2. Sprint holds a Certificate of Authority from the Commission to provide intrastate interexchange service within South Dakota. When providing intrastate interexchange services, Sprint purchases intrastate switched access services from originating carriers, intermediary carriers and terminating carriers in accordance with tariffs filed with and approved by the Commission.

3. On May 4, 2010, Sprint filed a complaint before the Commission against the applicant in this proceeding, Native American Telecom, LLC ("NAT"). In its Complaint, TC10-26, Sprint disputed NAT's right to operate within the State of South

Dakota without a Certificate of Authority, for running a traffic pumping scheme and for illegally invoicing Sprint for terminating access charges.

4. Sprint's Complaint before the Commission remains pending.

5. On October 6, 2011, NAT filed an Application for a Certificate of Authority with the Commission in order "to provide local and interexchange services within the study area of MidState Communications, Inc. ("MidState")." NAT Application at 1. NAT's Application thus seeks to provide services outside the exterior boundaries of the Crow Creek Sioux Reservation and to non-members of the Crow Creek Sioux Tribe, whether within or without the Crow Creek Sioux Reservation.

6. In March 2011, in litigation with NAT in federal district court in South Dakota, NAT sought injunctive relief from that court claiming that it was on the verge of bankruptcy. While the federal court denied that request, NAT's assertion of financial insolvency calls into question NAT's present ability to meet the service requirements imposed on telecommunications service providers by federal and state law. *See* SDCL A.R.S.D. 20:10:32:15; 47 U.S.C. § 214(e)(1).

7. State law vests the Commission with authority over NAT's Application. *See* SDCL § 49-31-71 and § 49-31-75.

8. Sprint has a direct, material pecuniary interest in NAT's Application, as NAT will likely seek to charge Sprint for, among other things, terminating access charges that Sprint believes will not be bona fide terminating access charges. *See* SDCL § 1-26-17.1. NAT's Application also directly implicates Sprint's Complaint against NAT in TC 10-26.

9. Sprint seeks intervention so that it may fully participate as a party in the Commission's disposition of NAT's Application.

Accordingly, Sprint requests the Commission grants its Petition to Intervene in TC 11-87, with full rights to participate as a formal party.

Dated: October ~~28~~²⁴ 2011

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was sent electronically to the following on the 28th day of October 2011:

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