

**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**

**QWEST'S RE-FILED PETITION TO INTERVENE**

Qwest Communications Company LLC, a Delaware Limited Liability Company, doing business as CenturyLink ("Qwest"), through counsel and pursuant to ARSD 20:10:01:15.02, .03, and .05, hereby petitions this Commission to grant Qwest intervention as a party in this Docket. As grounds, Qwest states as follows:

1. On October 11, 2011, Native American Telecom, LLC, ("NAT") submitted its Application for a Certificate of Authority to provide local exchange and interexchange service within the study area of Midstate Communications, Inc.

2. Upon information and belief, NAT engages in the practice of "access stimulation," or "traffic pumping." This practice has been characterized by the FCC as follows:

As described by this Commission, "access stimulation" is an "arbitrage scheme" by which a telecommunications carrier "enters into an arrangement with a provider of high volume operations such as chat lines, adult entertainment calls, and 'free' conference calls" in order to generate elevated traffic volumes and maximize access charge revenues.<sup>1</sup>

3. Qwest is an interexchange carrier, and as such is the targeted victim of local exchange carriers engaging in traffic pumping. Thus, NAT may attempt to charge Qwest switched access for interexchange calls that NAT delivers to free calling companies.

4. Accordingly, to the extent NAT is facilitating or promoting the practice of traffic pumping through its Application for a Certificate of Authority, Qwest "will be bound and affected ... adversely with respect to an interest peculiar to the petitioner as distinguished from

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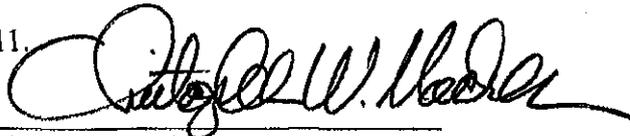
<sup>1</sup> *In the Matter of Qwest Communications Company, LLC v. Northern Valley Communications, LLC*, File No. EB-11-MD-001, Released June 7, 2011, at footnote 1, quoting *Connect America Fund*, Notice of Proposed Rulemaking and further Notice of Proposed Rulemaking, 26 Fed 4554, 4758, ¶ 636 (2011).

an interest common to the public or to the taxpayers in general,” as provided in ARSD 20:10:01:15:05.

5. Pursuant to ARSD 20:10:01:15:05, which obligates a petitioner to state its position in the proceeding, Qwest states that it ardently opposes the practice of traffic pumping, that traffic pumping is not in the public interest, and that traffic pumping is an unfair and fraudulent extortion of switched access monies from interexchange carriers such as Qwest in contradiction of the state and federal switched access regulatory structures. For these reasons, Qwest respectfully requests the Commission to grant Qwest’s petition to intervene as a party in this docket.

6. Qwest timely filed its petition to intervene on Friday, October 28, 2011, the posted deadline for intervention. Qwest is re-filing this petition through the undersigned counsel because Qwest has learned of a potential objection by counsel for Native American Telecom, LLC. Qwest respectfully submits that its petition for intervention in this matter is timely by virtue of the October 28, 2011, filing because this re-filing relates back to that date. However, to the extent this re-filing is considered untimely, Qwest respectfully requests the Commission grant the petition nonetheless because granting the intervention will not unduly prejudice the rights of other parties to the proceeding under ARSD 20:10:01:15.02.

Dated this 1 day of November, 2011.



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**CERTIFICATE OF SERVICE**

I, Christopher We. Madsen, hereby certify that I am a member of the law firm of Boyce, Greenfield, Pashby & Welk, L.L.P. and that on the 1<sup>st</sup> day of November, 2011, I electronically filed **Qwest's Re-Filed Petition to Intervene** and emailed a true and correct copy of the foregoing to the following persons:

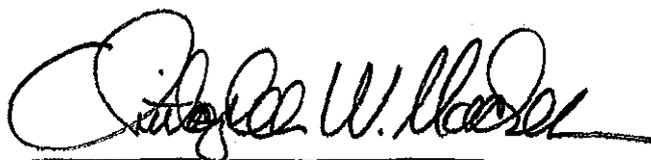
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