

**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 ON THE)
CROW CREEK INDIAN)
RESERVATION)

DOCKET NO. TC08-110

COMMENTS OF THE CROW CREEK SIOUX TRIBE

The Crow Creek Sioux Tribe ("Tribe") hereby submit these comments on the Motion To Dismiss filed by Native American Telecom, LLC ("Native Telecom"). In its Motion, Native Telecom requests that the Commission dismiss its application for a certificate of authority to provide local exchange service on the Crow Creek Indian Reservation based upon the Tribe exercising jurisdiction over Native Telecom's provision of service within the exterior boundaries of the reservation. For the reasons explained herein, the Tribe urges the Commission to recognize the Tribe's jurisdiction and sovereignty and dismiss Native Telecom's application.

The Crow Creek Indian Reservation is home to the Tribe. The Crow Creek reservation is one of the nation's poorest Indian reservations. To address the staggering economic conditions on the reservation, the Tribe has developed a Telecommunications Plan for the establishment of a telecommunications infrastructure on the reservation that will enable business, economic, social and educational development. Under this plan:

- 1 The Tribe will supplement the wireless and wireline services available on the reservation with advanced broadband and telephone services through the establishment of a new competitive local exchange carrier ("CLEC") utilizing state-of-the-art advanced fixed wireless technology on the reservation. The CLEC, Native American Telecom LLC, will initially provide broadband internet access to critical tribal government locations, schools, and other educational and medical locations, and then will expand service to other businesses and residents on the reservation.
- 2 The Tribe will use its telecommunications infrastructure to attract new businesses to generate economic development, employment opportunities, and revenue. The tribe will take advantage of its telecommunications infrastructure to (i) develop private sector incentive programs, such as the Minority Business Enterprise Program, (ii) take advantage of its tribal sovereignty in engaging in business, and (iii) apply for status as a foreign trade zone.

The Tribe will use its access to information and services to take advantage of

programs and services aimed at addressing the social needs of the reservation. To this end, on October 28, 2008, the Crow Creek Utility Authority issued the *Order Granting Approval To Provide Telecommunications Service on the Crow Creek Reservation* authorizing Native Telecom to provide local exchange and other telecommunications services on the Crow Creek reservation, subject to the jurisdiction of the laws of the Crow Creek Sioux Tribe. Under the Constitution and By Laws of the Crow Creek Sioux Tribe, the Tribal Council is empowered and authorized to enact resolutions and ordinances governing the management of all economic and educational affairs and enterprises of the Tribe. The Crow Creek Utility Authority Ordinance was amended in September 1997 to establish the Crow Creek Utility Authority. Under the Crow Creek Utility Authority Plan of Operation, the stated purpose of the Crow Creek Utility Authority is to "plan for, provide, and furnish utility services in all areas of the Crow Creek Sioux Reservation."

In August, the Tribe entered into an agreement with Native Telecom to develop a telecommunications system on the reservation that would further business, economic, social, and educational development on the reservation, consistent with the Tribe's Telecommunications Plan To Further Business, Economic, Social, and Educational Development on the reservation. As a sovereign nation, the Tribe has jurisdiction over an entity that provides service exclusive to the reservation, which is what Native Telecom is proposing to do.

Based upon the *Crow Creek Order*, the Tribe's agreement with Native Telecom, and Native Telecom's provision of service being limited to consumers residing within the exterior boundaries of the Crow Creek reservation, the Tribe has jurisdiction over Native Telecom's provision of service and therefore the application filed with the Commission should be dismissed.

Dated this 11th day of December 2008.

Respectfully submitted,

Crow Creek Sioux Tribe

By:

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CERTIFICATE OF SERVICE

I, Brandon Sazue, hereby certify that, on the 11th day of December 2008, I sent a true and correct copy of these Comments to the following:

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