

**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) DOCKET NO. TC08-110
TO PROVIDE LOCAL EXCHANGE)
SERVICE ON THE CROW CREEK)
INDIAN RESERVATION)

INTERVENORS MOTION TO COMPEL

Midstate Communications (Midstate), Venture Communications Cooperative (Venture), and South Dakota Telecommunications Association (SDTA) (collectively referred to as Intervenor(s)) hereby file the following Motion to Compel pursuant to ARSD 20:10:01:22.01 and SDCL 15-6-37(a).

BACKGROUND

On September 9, 2008, Native Telecom filed an Application for authority to provide local exchange service on the Crow Creek Indian Reservation pursuant to A.R.S.D. 20:10:32:03 and 20:10:32:15. In its Petition, Native Telecom requests authority to provide local exchange service on the Crow Creek Indian reservation, which would include Midstate's and Venture's service areas. Midstate and Venture are rural telecommunications companies that hold a certificate of authority to provide local exchange service in the geographic area where Native Telecom seeks to provide local exchange service. Midstate and Venture were granted Intervention in this matter on October 21, 2008, as was SDTA.

MOTION TO COMPEL

On November 14, 2008, Intervenors served Interrogatories and Requests for Production electronically on Native Telecom by and through its attorney of record Gene DeJordy. To date, Native Telecom has not responded to the Interrogatories and Requests for Production.

Pursuant to ARSD 20:10:01:22.01, the taking and use of discovery before the Commission shall be in the same manner as is in the circuit courts of the state. SDCL 15-6-33(a) provides that the party upon whom interrogatories have been served shall serve a copy of the answers and objections, if any, within thirty days after the service of the interrogatories. SDCL 15-6-34(b) provides that a party upon whom a request for production has been served shall serve a written response within thirty days after the service of the request. Native Telecom has not responded and more than thirty days have passed.

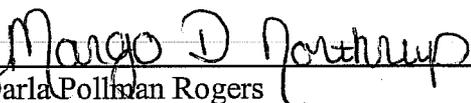
The South Dakota Supreme Court has made it clear that the statutory mandate establishing the time period for discovery responses are not invitations, requests or even demands; they are mandatory. Schwartz v. Palachuk, 1999 SD 100, ¶ 23, 597 NW2d 442, 447 In fact, failure to respond to discovery responses can subject the answering party to sanctions including reasonable expenses, including attorney's fees incurred in bringing a motion to compel. SDCL 15-6-37(a) 4

CONCLUSION

For the foregoing reasons, Intervenors urge the Commission to enter an Order compelling Native Telecom to answer the Interrogatories and Requests for Production

served upon them and award the Intervenors their reasonable expenses, including attorney's fees, incurred in obtaining the Order to Compel.

Dated this 16 day of January, 2009.



Darla Pollman Rogers
Margo D. Northrup

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of MOTION TO COMPEL was served via the method(s) indicated below, on the 16 day of January, 2009, addressed to:

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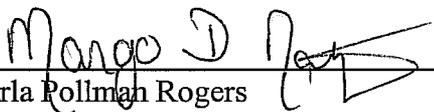
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Dated this 16 day of January, 2009.



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Margo D. Northrup