

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

MOTION TO DISMISS

Native American Telecom, LLC (“Native Telecom”) hereby respectfully 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 Crow Creek Sioux Tribe exercising jurisdiction over Native Telecom’s provision of service only within the exterior boundaries of the reservation. On October 28, 2008, the Crow Creek Utility Authority issued the attached *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.¹

In the *Crow Creek Order*, the Crow Creek Utility Authority granted Native Telecom authority to provide telecommunications services on the reservation subject to the jurisdiction of the laws of the Crow Creek Sioux Tribe. Based upon Native Telecom’s commitment to work with the Crow Creek Sioux Tribe to identify and pursue economic development opportunities and make basic telephone and advanced broadband services readily available and affordable to residents of the reservation, the Crow Creek Utility Authority concluded that Native Telecom’s proposal falls within its jurisdiction.

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” (Section 3.A.1.).

¹ In the Matter of Native American Telecom, LLC Request To Provide Telecommunications Service Within The Exterior Boundaries of the Crow Creek Reservation, *Order Granting Approval To Provide Telecommunications Service on the Crow Creek Reservation (“Crow Creek Order”)*, Crow Creek Sioux Tribe, Crow Creek Utility Authority, October 28, 2008.

The Crow Creek Utility Authority further found that Native Telecom's proposal to provide basic telephone and advanced broadband services on the reservation is consistent with the "Crow Creek Indian Reservation Telecommunications Plan To Further Business, Economic, Social, and Educational Development" on the reservation² and therefore Native Telecom should be granted authority to provide service on the reservation.

Based upon the *Crow Creek Order* and Native Telecom's provision of service being limited to consumers residing within the exterior boundaries of the Crow Creek reservation, Native Telecom hereby requests that its application filed with this Commission be dismissed.

Dated this 30th day of November 2008.

Respectfully submitted,

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² On August 19, 2008, the Crow Creek Sioux Tribe released its Telecommunications Plan To Further Business, Economic, Social, and Educational Development on the reservation.

CERTIFICATE OF SERVICE

I, Gene DeJordy, hereby certify that, on the 30th day of November 2008, I sent by email a true and correct copy of the Motion To Dismiss to the following:

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