

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN RE:

Docket No. TC10-026

SPRINT COMMUNICATIONS  
COMPANY L.P.,

Complainant,

**AFFIDAVIT OF AMY S. CLOUSER**

v.

NATIVE AMERICAN TELECOM, LLC,

Respondent.

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State of Kansas     )  
                              ) S.S.  
County of Johnson )

Amy S. Clouser, being duly sworn, hereby states under oath as follows:

1. My name is Amy S. Clouser. I work for Sprint United Management Company as an Access Verification Analyst. Among my duties and responsibilities as an Access Verification Analyst is to audit and process invoices related to switched access charges billed to Sprint Communications Company L.P. ("Sprint") in its capacity as a long-distance carrier. I have held this position since 2005. I am personally familiar with the billing dispute between Sprint and Native American Telecom, LLC ("NAT"). Except where otherwise noted, I have first-hand knowledge of the facts in my affidavit and could and would, if called upon to do so, testify competently to those facts.

2. Sprint is a Delaware limited partnership with its principal place of business in Overland Park, Kansas. It is authorized to do business in South Dakota, certificated by the South Dakota Public Utilities Commission to provide intrastate long distance services

in South Dakota and authorized by the Federal Communications Commission to provide interstate long distance services. Sprint has never consented to be sued by NAT or anyone else in Crow Creek Sioux Tribal Court.

3. Sprint is a telecommunications company that provides telecommunications services nationwide and, in the context of the issues addressed in this case, operates as an interexchange carrier ("IXC"). As an IXC, Sprint provides long distance telecommunication services. In a typical situation, when an end user customer places a long distance call, the call is delivered to Sprint's long distance network, which carries the call to the network of the local exchange carrier ("LEC") serving the called party. In some cases there is a third party carrier between Sprint's long distance network and the network of the LEC serving the called party.

4. When a person makes a long distance call, he or she dials a ten-digit number. The first three digits are known as the area code or "NPA", the next three digits identify the specific destination terminal. The last four digits identify the end user or called party. In the case of NAT, it operates within NPA area code 605 (South Dakota has only one area code) with a destination terminal assigned the NXX number 477. The NXX number identifies the Central Office or Exchange within the assigned NPA. In other words, a NAT customer would have a telephone number that starts with (605) 477-XXXX.

5. Sprint does not ordinarily own the facilities within a local calling area over which the call travels its last leg to the called customer's premises. The facilities used to complete the last leg of these calls are typically provided by the called party's own LEC.

Because Sprint does not generally own the facilities that physically connect to end users who are using phone numbers obtained from the LEC, it must pay local carriers for access to them. The charge that Sprint pays for access to the called party's LEC is known as a "terminating access" charge because the call "terminates" with the party that is called.

6. Sprint (like other long-distance carriers) purchases terminating access service under a tariff required to be published by the local carrier that contains charges for terminating access (along with other offered services). Sprint and other long-distance carriers have purchased access services under the tariff whenever they hand off a call to the local carrier that has properly defined "terminating access" service. Because LECs have an effective monopoly over local telephone service in their service areas, the long distance carriers have no choice but to purchase the service defined in the tariff when the calls are made from one of their customers to an end user in the calling area of the local exchange carrier.

7. The telephone network in North America is known in the telecommunications industry as the Public Switched Telephone Network. A company called Telcordia Technologies, Inc. has produced something called originally the Local Exchange Routing Guide, or "LERG." Today it is a trademarked term called Telcordia LERG Rating Guide. Telcordia maintains a database for all of North America that has, for example, the following types of information: operating company numbers, company names, routing contacts, country codes, area codes, LATA (Local Access and Transport Area) codes, destination codes (*i.e.*, NPA NXX and thousands-blocks) switch homing

arrangements (tandem and other switch-to-switch interconnections), operator access tandem codes (ATCs), and location routing numbers (LRNs). This database is considered reliable and used throughout the telecommunications industry.

8. This dispute began in December 2009, when NAT began invoicing Sprint for allegedly providing terminating switched access services to Sprint. NAT did not invoice Sprint directly but used CABS Agent, a third party based in Texas, to bill Sprint with CABS Agent as the payee. Sprint paid two of CABS Agent's invoices by issuing checks with CABS Agent as the payee and mailing the checks to a post office box in Austin, Texas. The total amount Sprint paid CABS Agent was over \$29,000. However, the third invoice from NAT's billing service was for an amount more than \$50,000 larger than the previous month. Sprint then investigated the invoices and determined that NAT was operating an illegal traffic pumping scheme. If Sprint had known NAT was engaged in a traffic pumping scheme from the beginning, Sprint would not have paid the first two CABS Agent's invoices. Sprint has requested return of the amounts it paid, but NAT has refused.

9. Traffic pumping occurs when a LEC partners with a second company ("Call Connection Company") that has established free or nearly free conference calling, chat-line, or similar services that callers use to connect to other callers or recordings. The Call Connection Company generates large call volumes to numbers assigned to the LEC. The LEC in turn unlawfully bills those calls to the IXCs as if they are subject to terminating access charges, hoping that the IXCs unwittingly pay those bills. If an IXC does so, the LEC and Call Connection Company share the revenues. What Sprint has

seen is that traffic pumping schemes target areas where access charges are the highest, which tend to be in rural areas of the country.

10. NAT claims the right to charge Sprint for terminating switched access service for calls made to the Crow Creek Sioux Tribe Reservation (“Reservation”) under tariffs allegedly on file with the Crow Creek Sioux Tribe Utility Authority (“Authority”) and the Federal Communications Commission (“FCC”). NAT’s claim that it provides competitive local exchange services to the Reservation is a sham: virtually all of NAT’s traffic billed to Sprint is delivered to conference bridge equipment operated by non-tribal members. Sprint believes the bridge equipment is located in another state. Virtually none of the parties participating on these calls are located on tribal lands.

11. NAT has devised a scheme to artificially inflate call volumes in order to bill Sprint for traffic NAT wrongly characterizes as tariffed “terminating access” service. But under this scheme, Sprint is *not* connecting a call with a called party on the Reservation that is a customer of NAT. Instead, NAT’s scheme with its Call Connection partners involves advertising “conference call,” or similar services that allow callers, who do not reside on the Reservation, to talk to one another.

12. Callers throughout the nation access these services by dialing a ten-digit NAT phone number with a South Dakota area code. To Sprint, each call appears to be an ordinary long-distance call to a called party in South Dakota. As I explain in more detail later, Sprint then carries the traffic to South Dakota Network, a third party carrier, who ultimately connects the call to NAT’s equipment. At the point of interface, between South Dakota Network and NAT, however, Sprint has learned that the call going to a

NAT telephone number is redirected to a telephone switch in California. The call is then directed to the Call Connection Company's conference bridge equipment.

13. If a Sprint customer were calling residences or businesses that purchase local phone service from NAT on the Reservation, Sprint would be purchasing a typical "terminating access" service, and would be paying NAT's terminating access charge under the tariff. Sprint pays terminating access charges when the service provided is true terminating access to an "end user," *i.e.*, a residential or business customer that resides in the LEC's territory. But that is not what happens in this traffic pumping scheme. Instead, with these calls, NAT transfers the call to a Call Connection Company that is jointly engaged in this scam.

14. These Call Connection Companies are business partners or joint venturers, not "customers" of NAT, as that term is generally understood. The Call Connection Companies do not pay money to NAT for any "service" as would be the case in a true customer relationship. Instead, they actually *receive* money in the form of kickbacks from NAT for their participation in this illegal scheme.

15. Moreover, the calling parties are not making terminating calls to these Call Connection Companies, but are seeking to talk to other parties outside of the service territory of NAT. The Call Connection Companies are simply connecting the calls like any other common carrier, and the calls do not actually "terminate" in the local exchange. In other words, the calls are not terminating to a NAT customer located on the Reservation. In fact, recent data for July 2010 indicates that 99.98% of the traffic NAT

wants to be paid for terminating actually goes to conference bridge equipment and not to an end user on the Reservation.

16. I undertook an investigation to determine whether Sprint interchanged calls on the Reservation using NAT-owned equipment located on the Reservation. Sprint itself does not have any equipment on the Reservation. My review of Sprint and other records indicates that Sprint does not directly interchange any calls with NAT's equipment located on the reservation, or anywhere else for that matter.

17. To make that determination, I examined a Sprint database that is called Sonar Sprint CDR (Call Detail Records) Database. This is a database that houses Sprint's call detail records from which we can produce ad hoc reports. I have attached as Exhibit A to my affidavit a print-out of a computer screen display (or screen shot) of that database as it relates to NAT.

18. This printout has seven cells. From the left, the first cell called "Terminating Access Type" has the acronym "FGD," an acronym standing for "Feature Group D Traffic," which indicates long distance. The second cell has the number "625," which indicates the terminating switch. The third cell is "Terminating Trunk Group," with the number "690." The combination of the switch 625 and trunk group of 690 indicates that all of Sprint's long distance calls to NAT's NXX (477) terminated with South Dakota Network, an entity unrelated to Sprint. I know the switch and trunk group combination is with South Dakota Network from Sprint's provisioning system. The next cell, "Terminating Trunk Type," and the acronym "FGD" indicate the service is long distance service. The fifth cell, "Terminating OCN" refers to the Operating Company

Number that terminated the call, the number 424F is assigned by the National Exchange Carrier Association (NECA) to NAT. The sixth cell, "Terminating State" is South Dakota. The last cell "MOU" is "minutes of use," or the minutes of usage measured by Sprint to South Dakota Network, which then interchanged that traffic to NAT for the period August 1-August 15, 2010.

19. I have also reviewed the Telecordia LERG Routing Guide for information on NAT. Telecordia will report how telecommunications traffic will be routed to NAT, based on information NAT has provided to Telecordia. A screen shot from the Telecordia LERG Routing Guide is attached to my affidavit as Exhibit B. There are eight cells in that Exhibit. The first cell on the left is "OCN," for Operating Company Number, which is a unique number assigned by NECA to any service provider. The next cell moving to the right is Operating Company Number, here NAT, and in the second row South Dakota Network, LLC. I know from checking Sprint's CDR and Facility Management System databases that all of Sprint's long distance traffic to South Dakota is exchanged with South Dakota Network.

20. The Telecordia LERG Routing Guide (*see* Exhibit B) shows that South Dakota Network LATA is in South Dakota with a tandem switch (a switch that interconnects with other switches) with a unique identifier, SXFLSDCHO1T, which indicates the switch is in Sioux Falls, South Dakota. The Telecordia LERG Routing Guide also shows that NAT has directed all incoming long distance traffic to NAT's exchange (477) be routed to that same switch. I can tell from the seventh cell that the



TRM D – terminating destination – for NAT’s incoming long distance traffic is South Dakota Network’s switch in Sioux Falls.

21. The final eighth cell (on the far right) shows “Actual Switch ID,” and an identifier LSANCAR06S, which shows a Los Angeles, California destination. I know from the Telecordia LERG Routing Guide this switch is owned by Widevoice Communications. NAT reports a Fort Thompson South Dakota switch, FFTHSDXA1ND. In other words, all long distance calls to the exchange of numbers assigned to NAT (477) go to South Dakota Network, which then exchanges the call to NAT’s reported switch in Fort Thompson, where the call is redirected to Widevoice’s switch in Los Angeles. Behind Widevoice’s switch will be equipment that can be used for conference bridging. Typically that equipment will be located at or near the switch. Sprint is familiar with Widevoice, as it has surfaced in other traffic pumping schemes in California.

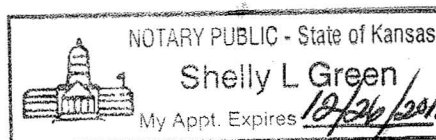
22. If NAT actually has local phone service on the Reservation, Sprint has nothing to do with that service, and calls would interconnect with South Dakota Network if any of NAT’s customers originate a long distance call.

This concludes my affidavit.

By: Amy S. Clouser  
Amy S. Clouser

Subscribed and sworn to before  
me this 27<sup>th</sup> day of September, 2010.

Shelly L. Green  
Notary Public



Source: Sprint CDR Database

Start Date Between: 08/01/2010-08/15/2010

T_Terminating Access Type	T_Terminating Switch	T_Terminating Trunk Group	Terminating Trunk Type	N_Terminating OCN	N_Terminating State	Total MOU
FGD	625	690	FGD	424F	SD	288,198

EXHIBIT A

Source: Telcordia LERG Routing Guide

OCN	OCN NAME	LATA	LATA NAME	SWITCH	ORG D	TRM D	ACTUAL SW ID
424F	NATIVE AMERICAN TELECOM, LLC - SD	640	SOUTH DAKOTA	FTTHSDXA1MD	SXFLSDCH01T	SXFLSDCH01T	LSANCARCD6S
8812	SOUTH DAKOTA NETWORK, LLC	640	SOUTH DAKOTA	SXFLSDCH01T			