

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

In the Matter of the Application of Crow Creek Telecom, LLC F/K/A Native American Telecom, LLC For a Certificate of Authority to Provide Local Exchange Service Within a Portion Of the Study Area of Midstate Communications, Inc.

Docket No. TC11-087

Opposition of AT&T Corp.

AT&T Corp. (“AT&T”) opposes the Motion for Grant of Temporary Authority or in the Alternative, Expedited Decision filed by Crow Creek Telecom, LLC f/k/a Native American Telecom, LLC (“CCT”) “to originate and terminate intrastate telecommunications services traffic within the Crow Creek Reservation and which traffic crosses Reservation boundaries within South Dakota”. The statutes and administrative rules governing the Commission do not provide for a grant of temporary authority. The legal requirements are very clear. SDCL 49-31-3 provides that a telecommunications company that plans to offer local exchange service or interexchange service must file an application for a certificate of authority. ARSD 20:10:24:02 sets forth the requirements for an application of authority for interexchange service. ARSD 20:10:32:03 sets forth the requirements for a certificate of authority for local exchange service. Absent compliance with the statute and rules, a telecommunications company cannot offer local or interexchange service. SDCL 49-31-3 also provides that offering of telecommunications service without a certificate of authority a misdemeanor. A grant of temporary authority is not an option.

CCT seeks expedited action in the alternative. The parties are already in the process of finalizing a hearing date in December 2013.

Part of the basis for CCT’s request is the assertion that they have been blocking calls between residents and businesses on the Reservation and those in other parts of South Dakota. AT&T disputes this assertion. AT&T’s network is recording intrastate interexchange traffic from the customers located on the Crow Creek Reservation and other parts of South Dakota. In addition, CCT has billed AT&T intrastate switched access charges intermittently, for intrastate calls associated with telephone numbers assigned to CCT. Please see attached confidential affidavit of John W. Habiak marked as Exhibit A. Thus, CCT is providing intrastate local

exchange service without a certificate in violation of SDCL 49-31-3. CCT has admitted it has provided this service but is not billing Sprint until it gets its certificate of authority. See, e.g. Docket TC-026 Native American Telecom LLC's Motion to Dismiss Based on Mootness, April 23, 2012 at pg 6. Regardless of blocking some calls, or suppressing some billings, CCT is in violation of SDCL 49-31-3 by providing this service.

CCT indicates that businesses and residents on the Reservation and the Crow Creek Sioux Tribe as a whole would benefit from the relief that it seeks. This implies that CCT is providing service throughout the reservation. However, CCT entered into a Stipulation with Midstate Telecommunications, Inc. and South Dakota Telecommunications Association starting that it intends to provide service only with Midstate's Fort Thompson exchange on the Crow Creek Reservation, not the entire Crow Creek Reservation.¹

For the foregoing reasons, AT&T respectfully requests that the Commission deny CCT's Motion for Grant of Temporary Authority or in the Alternative, Expedited Decision.

Date this 3rd day of October, 2013.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was sent electronically to the following on the 3rd day of October 2013:

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¹ Stipulation by and Between Native American Telecom, LLC, Midstate Communications, Inc. and South Dakota Telecom Association, filed March 26, 2012 in Docket TC11-087; Letter from Meredith Moore and Richard D. Coit filed on August 20, 2013 in Docket TC11-087.

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