

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

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IN THE MATTER OF THE APPLICATION  
OF NATIVE AMERICAN TELECOM, LLC  
FOR A CERTIFICATE OF AUTHORITY TO  
PROVIDE LOCAL EXCHANGE SERVICE  
WITHIN THE STUDY AREA OF  
MIDSTATE COMMUNICATIONS, INC.

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Docket No. TC11-087

**DIRECT TESTIMONY OF  
JEFF HOLOUBEK  
ON BEHALF OF  
NATIVE AMERICAN TELECOM, LLC**

**April 20, 2012**



**BACKGROUND & EXPERIENCE OF JEFF HOLOUBEK**

**Q: Please state your name.**

A: My name is Jeff Holoubek.

**Q: How are you affiliated with Native American Telecom, LLC?**

A: I serve as Native American Telecom, LLC's ("NAT") acting president.

**Q: What is the purpose of your testimony in this proceeding?**

A: The purpose of my testimony is to respond to the Direct Testimony of William R. Easton (Qwest/CenturyLink) (filed with the Commission on March 26, 2012) and Direct Testimony of Randy G. Farrar (Sprint Communications Company, L.P.) (filed with the Commission on March 26, 2012).

**Q: Please summarize your background and experience.**

A: I currently serve as the acting president of NAT. I have a law degree from the Boston University School of Law. I have a Masters of Business Administration ("MBA") from California State University - Fullerton, where I received the "Most Outstanding Graduate Student" designation. I hold Bachelor of Arts degrees in Accounting, Finance, and Philosophy.

## **NAT'S BUSINESS STRUCTURE**

**Q: Please provide a description of NAT's legal and organizational structure.**

A: NAT is a tribally-owned telecommunications company organized as a limited liability company under the laws of South Dakota.

NAT's ownership structure consists of the Crow Creek Sioux Tribe (51%) ("Tribe"), located at P.O. Box 50, Fort Thompson, SD 57339-0050, Native American Telecom Enterprise, LLC (25%) ("NAT Enterprise"), located at 747 S. 4th Ave., Sioux Falls, SD 57104, and WideVoice Communications, Inc. (24%), located at 410 South Rampart, Suite 390, Las Vegas, NV 89145.

## **THE BENEFITS THAT NATIVE AMERICAN TELECOM, LLC HAS PROVIDED TO THE CROW CREEK SIOUX TRIBE AND RESERVATION**

**Q: What benefits and services has NAT provided to the Crow Creek Sioux Tribe and Reservation?**

A: NAT's benefits and services to the Tribe and on the Reservation include:

- NAT provides 110 high-speed broadband and telephone installations at residential and business locations on the

Reservation. Additional installations are taking place on a consistent basis.

- NAT has established an Internet Library with six (6) work stations that provide computer/Internet opportunities for residents that do not otherwise have access to computers. These items allow the Internet Library's users to become more adept at using the Internet, starting their own on-line businesses, and engaging in continuing education.
- The demand for the Internet Library's services is so great that NAT built an additional facility on the Reservation that will serve as a full-service communications center offering free Internet, online education classes, computer classes and instruction, and free telephone access to individuals who would otherwise not have access to even these basic services. This state-of-the-art facility will open later this year.
- NAT has created seven jobs (three full-time and four part-time) and an office location on the Reservation. These employment opportunities are substantial considering the well-documented fact that the Reservation's unemployment rate is estimated to be between eighty (80) and ninety (90) percent.

- NAT has spent approximately \$100,000 (ONE HUNDRED THOUSAND DOLLARS and 00/100) to build a full-service communications center on the Reservation.
- This public/private partnership between NAT and the Tribe has far-reaching social and economic benefits for the Reservation.

NAT has provided these benefits even while combating non-payment issues by the Interexchange Carriers ("IXCs), led by the "efforts" of CenturyLink and Sprint.

CenturyLink and Sprint conveniently ignore the benefits provided by this unique public/private partnership. CenturyLink and Sprint have also deliberately mislead this Commission by unduly lengthening this certification proceeding, knowing that NAT does not have unlimited resources.

#### **NAT'S BUSINESS MODEL**

**Q: Please describe NAT's business model.**

A: When NAT was started, it was envisioned that the Tribe would eventually run the telephone company. Shortly after NAT's inception, however, Sprint brought multiple lawsuits designed to suppress NAT's development and growth. Sprint's very public attempts to destroy NAT business and defame its executive staff and the Tribe resulted in all IXCs ceasing payment for NAT's services, including "access stimulation" traffic

and all other telephone traffic. Sprint drove NAT to the brink of bankruptcy, until the Federal Communications Commission ("FCC") issued its *Connect America Order* ("Final Rules") in November 2011. The FCC's "Final Rules" reaffirmed the legality of "access stimulation."

Shortly after the FCC issued its Final Rules, other IXCs began paying their bills, thereby making NAT a viable business entity once again. Unfortunately, despite the FCC's Final Rules, CenturyLink and Sprint *still refuse* to pay NAT for NAT's services. However, this is not surprising because CenturyLink and Sprint still refuse to pay many (if not all) LECs for services by exerting their market power.

Sprint, in particular, has been admonished for its practices. Its representatives have testified that it is Sprint's "business practice" to dispute charges rather than pay them, legitimate or not.

CenturyLink and Sprint owe NAT (and numerous other carriers) a substantial sum of money that CenturyLink and Sprint are simply trying to avoid paying, thereby flaunting the FCC's Final Rules.

For example, Sprint charges some its customers 15.5 cents per minute or more to complete their calls, but refuses to pay NAT the six tenths of one penny NAT charges for the most important part of the call - call completion.

Also, Sprint's terms and conditions state that Sprint can discontinue service to its customers if its customers use conferencing services. However, Sprint completes these calls anyway and chooses instead to not pay LECs (including NAT) for terminating access service. This is a "business model" that Sprint uses, not just regarding NAT, but in numerous other places throughout the nation. Sprint's "business model" has been destructive to NAT and to the entire intercarrier compensation system.

NAT was the first of what was to be a conglomerate of many tribally-owned telephone companies. The Joint Venture agreement was written with this intention. The agreement between Free Conferencing Corporation and NAT was also written with this intention.

FCC Commissioner Michael Copps and Jack Stevens of the Bureau of Indian Affairs were consulted as to the best way to impact the most positive change in Indian Country regarding the expansion of modern telecommunications to those areas. The public/private partnership is intended to be a good business decision and relationship for everyone.

CenturyLink's and Sprint's initial attempts to destroy NAT's business model with non-payment, defamatory statements, and multiple lawsuits necessitated several organizational changes. The reason I assumed the role of NAT's acting president was that NAT required an

individual with the proper business and legal background to guide NAT through this initial period. NAT's Board of Directors made this decision.

There are parts of the original agreement that have never been enforced due the ever changing legal and business environment. For instance, Free Conferencing Corporation has never been paid a fee greater than 75% of revenues generated by traffic from Free Conferencing Corporation's customers. Free Conferencing receives nothing for traffic that is not generated by its customers. Until very recently, neither Wide Voice Communications, Inc., NAT Enterprise, nor the Tribe received actual payments, because the IXCs were not paying its bills until recently. The clause in the Joint Venture agreement that references a 15% reserve for expenses was designed to ensure that there would always be enough operating revenues, however, that clause has never been enforced due to CenturyLink's and Sprint's actions. The Tribe is also involved in all important decisions of NAT.

NAT's accounting duties were turned over to Carlos Cestero, who also works for Free Conferencing Corporation, because there were no resources to pay a separate accountant. When NAT was first formed, there was a separate accountant who held of these duties. All of NAT's business and accounting decisions are completely independent and kept separate of Free Conferencing Corporation. My role and that of Mr.

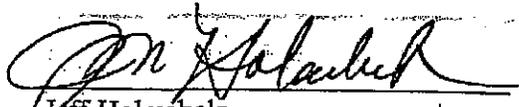
Cestero's is a temporary solution to a problem caused by CenturyLink and Sprint.

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**VERIFICATION**

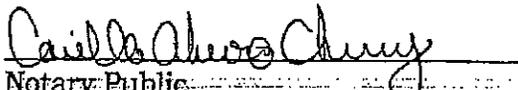
I, *Jeff Holoubek*, state that I have first-hand knowledge of the matters set forth above and hereby verify that, to the best of my knowledge and belief, the allegations and statements contained herein are true and correct.

Dated this 20 day of April, 2012.

  
Jeff Holoubek

STATE OF CALIFORNIA     )  
COUNTY OF Los Angeles     )

Subscribed and sworn to before  
me this 20 day of ~~February~~  
April, 2012.

  
Notary Public

My Commission Expires: Oct 8, 2015

(SEAL)

