

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

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| <b>IN THE MATTER OF THE APPLICATION OF )</b>  | <b>ORDER SETTING</b> |
| <b>NATIVE AMERICAN TELECOM, LLC FOR A )</b>   | <b>PROCEDURAL</b>    |
| <b>CERTIFICATE OF AUTHORITY TO PROVIDE )</b>  | <b>SCHEDULE</b>      |
| <b>INTEREXCHANGE TELECOMMUNICATION )</b>      |                      |
| <b>SERVICES AND LOCAL EXCHANGE SERVICES )</b> | <b>TC11-087</b>      |
| <b>IN SOUTH DAKOTA )</b>                      |                      |

On October 11, 2011, the Public Utilities Commission (Commission) received an application from Native American Telecom, LLC (NAT) for a certificate of authority to provide interexchange long distance service and local exchange services in South Dakota. On October 13, 2011, the Commission electronically transmitted notice of the filing and the intervention deadline of October 28, 2011, to interested individuals and entities. On October 13, 2011, the Commission received a Petition to Intervene by Midstate Communications, Inc. (Midstate). On October 26, 2011, the Commission received a Petition to Intervene by AT&T Communications of the Midwest, Inc. (AT&T). On October 28, 2011, the Commission received a Petition to Intervene from Sprint Communications Company, L.P. (Sprint), Qwest Communications Company LLC dba CenturyLink (CenturyLink), and South Dakota Telecommunications Association (SDTA). On November 1, 2011, CenturyLink re-filed its Petition to Intervene. On November 14, 2011, NAT filed its responses to the petitions for intervention. On November 18, 2011, CenturyLink filed CenturyLink's reply. On November 21, 2011, NAT filed a Notice of Supplemental Authority. On November 22, 2011, the Commission voted unanimously to grant intervention to Midstate, AT&T, Sprint, CenturyLink, and SDTA. On January 12, 2012, NAT filed a Motion Requesting a Protective Order Requiring the Parties and Intervenors to Comply with a Confidentiality Agreement.

On January 27, 2012, NAT filed a revised Application for Certificate of Authority. In its revised application, NAT stated that it seeks to provide local exchange and interexchange service within the Crow Creek Sioux Tribe Reservation which is within the study area of Midstate. On January 31, 2012, the Commission granted the Motion Requesting a Protective Order Requiring the Parties and Intervenors to Comply with a Confidentiality Agreement. On February 17, 2012, NAT filed its direct testimony. On February 22, 2012, the Commission issued an Order for and Notice of Procedural Schedule and Hearing. On March 26, 2012, Sprint and CenturyLink filed their direct testimony and NAT filed a Motion for Summary Judgment. On March 27, 2012, a Stipulation By and Between NAT, Midstate, and SDTA was filed. On April 2, 2012, Sprint filed a Motion to Compel and CenturyLink filed a Motion to Compel Discovery Responses. On April 3, 2012, NAT filed a Motion to Compel Discovery. Responses and replies were filed to the Motions to Compel and the Motion for Summary Judgment. By order dated April 5, 2012, the Commission issued an Amended Order for and Notice of Procedural Schedule and Hearing. On April 20, 2012, NAT filed its reply testimony. On May 4, 2012, the Commission issued an Order Denying Motion for Summary Judgment; Order Granting Motions to Compel; Order Granting in Part and Denying in Part Motion to Compel.

On May 7, 2012, NAT served a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in Civil Action on the Commission. On May 16, 2012, the Commission issued an Order Quashing Subpoena.

By order dated April 5, 2012, the hearing in this matter was scheduled for June 7, 2012. On May 18, 2012, Qwest filed a letter stating that the parties had reached an agreement for a continuance of the hearing set for June 7, 2012.<sup>1</sup>

The Commission finds that it has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31. The Commission may rely upon any or all of these or other laws of this state in making its determination.

The parties have now agreed to the following procedural schedule:

- January 18, 2013 Documents and other discovery as required by the Commission in its May 4, 2012 order shall be produced
- April 1, 2013 All discovery to be completed (fact and expert)
- April 8, 2013 NAT's supplemental written testimony is due
- May 8, 2013 Intervenors' supplemental written testimony is due
- May 29, 2013 All parties' pre-hearing motions are due
- June 14, 2013 All parties' responses to pre-hearing motions are due

It is therefore

ORDERED, that the parties shall follow the procedural schedule as set forth above.

Dated at Pierre, South Dakota, this 2nd day of January, 2013.

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| <b>CERTIFICATE OF SERVICE</b>  |
| The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically. |
| By: <u>Joy Drury</u>   |
| Date: <u>1.2.13</u>  |
| (OFFICIAL SEAL)  |

BY ORDER OF THE COMMISSION:

Chris Nelson  
CHRIS NELSON, Chairman

Kristie Fiegen  
KRISTIE FIEGEN, Commissioner

Gary Hanson  
GARY HANSON, Commissioner

<sup>1</sup> On May 14, 2012, NAT filed a Notice of Appeal in circuit court regarding the Commission's Order Granting Intervention and the Order Denying Motion for Summary Judgment; Order Granting Motions to Compel; Order Granting in Part and Denying in Part Motion to Compel. On May 31, 2012, NAT filed a Second Notice of Appeal regarding the Commission's Order Quashing Subpoena. By order dated October 17, 2012, the circuit court dismissed the appeal.