

1 UNITED STATES DISTRICT COURT
 2 DISTRICT OF SOUTH DAKOTA
 3 SOUTHERN DIVISION
 4 * * * * *
 5 Case Civ. 10-4110
 6 SPRINT COMMUNICATIONS COMPANY, L.P.,
 7 Plaintiff,
 8 -vs-
 9
 10 THERESA MAULE, in her official capacity
 11 as Judge of Tribal Court, CROW CREEK
 12 SIOUX TRIBAL COURT, and
 13 NATIVE AMERICAN TELECOM, LLC,
 14 Defendants.
 15
 16 U.S. District Courthouse
 17 Sioux Falls, SD
 18 October 14, 2010
 19 9:00 o'clock a.m.
 20 * * * * *
 21 H E A R I N G
 22 * * * * *
 23 BEFORE: The Honorable Karen E. Schreier
 24
 25 APPEARANCES:
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 -and-

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 12
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 19
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 25
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1 THE COURT: This is the time scheduled for a
 2 hearing in the matter entitled Sprint Communications
 3 Company, LP, versus Theresa Maule, Crow Creek Sioux Tribal
 4 Court, and Native American Telecom, LLC.
 5 Would counsel please note their appearances for
 6 the record?
 7 MR. WHITING: Your Honor, my name is Stan
 8 Whiting. I'm here on behalf of Sprint. With me is Tom
 9 Tobin from Winner, South Dakota. Bret Lawson is in-house
 10 corporate counsel from Kansas City. The gentleman that
 11 will be handling the matters today is Scott Knudson from
 12 Minneapolis.
 13 THE COURT: Thank you.
 14 MR. SWIER: Good morning, Your Honor. Scott
 15 Swier. I represent Native American Telecom in this matter.
 16 MS. ROBERTS: Good morning, Your Honor. Judith
 17 Roberts. I represent Crow Creek Tribal Council, and in
 18 extension of them the Utility Authority and the Tribal
 19 Court.
 20 MS. DAMON: Your Honor, my name is Jamie Damon.
 21 I represent Theresa Maule, in her official capacity as
 22 Judge of the Tribal Court.
 23 THE COURT: Thank you. First I wanted to take up
 24 the motion filed by Theresa Maule to dismiss the claim
 25 against her, because she no longer serves as a Tribal Court

1 convenient way for us to set it up? Should we direct it
 2 toward the Court, or how would you like us to do that?
 3 THE COURT: If you want me to see what's on
 4 there, it would help if you would turn it so I can see it.
 5 MR. SWIER: May I proceed?
 6 THE COURT: You may.
 7 KEITH WILLIAMS,
 8 called as a witness, being first duly sworn, testified as
 9 follows:
 10 MR. KNUDSON: If we could move the easel back
 11 towards the screen, both the Court and counsel could see
 12 what is on the screen.
 13 THE COURT: Another option is we have an overhead
 14 camera. If you wanted to write something on a sheet of
 15 paper there, I can see it on my screen here, and the
 16 attorneys can see it on their screens. Unless you are
 17 really tied to using the easel.
 18 MR. SWIER: As long as everybody can see it,
 19 that's all I care about, Your Honor.
 20 DIRECT EXAMINATION
 21 BY MR. SWIER:
 22 Q. Keith, would you please introduce yourself to the
 23 Court.
 24 A. **My name is Keith Williams. I'm a network engineer**
 25 **with WideVoice Communications. I've been doing**

1 **A. That's correct.**
 2 MR. SWIER: With the Court's permission, could
 3 the witness approach the easel?
 4 THE COURT: It did just zoom in now, if you want
 5 to try it.
 6 BY MR. SWIER:
 7 Q. Keith, I'd like you to explain to the Court how this
 8 complex system that we are all arguing about works. Would
 9 you take us through a call simply from say Fargo, North
 10 Dakota, and how that routes and ultimately gets to the
 11 Reservation at Ft. Thompson?
 12 **A. Okay. I'll start by drawing just the United States,**
 13 **or something similar to.**
 14 Q. Keith, could you turn that so -- there we go. Okay.
 15 You've drawn a picture of the United States. Mark for the
 16 Court where North Dakota would be, and where would South
 17 Dakota be?
 18 **A. (Witness indicating).**
 19 Q. Mark where the Crow Creek Reservation would be,
 20 approximately, in South Dakota.
 21 **A. (Witness indicating).**
 22 Q. Keith, let's say my grandmother lives in Fargo, and
 23 she wants to make a call from Fargo to the Crow Creek
 24 Reservation to NAT's facility there.
 25 **A. Okay.**

1 **telecommunications and IP networking for over 10 years.**
 2 Q. You are an employee of WideVoice Communications. Is
 3 that right?
 4 **A. That's correct.**
 5 Q. Tell us about your experience in dealing with
 6 telecommunications networks that are similar to what is
 7 found on the Crow Creek Reservation.
 8 **A. I've worked for a couple CLECs, which are competitive**
 9 **local exchange carriers, phone companies, doing voiceover**
 10 **IP, in scenarios not unlike what is going on at Native**
 11 **American Telecom.**
 12 Q. Real briefly, tell you what your duties are for
 13 WideVoice. What do you do everyday when you get up?
 14 **A. Network design, implementation, troubleshooting.**
 15 Q. Keith, are you familiar with the network that is owned
 16 on the Crow Creek Reservation by Native American Telecom?
 17 **A. I am.**
 18 MR. SWIER: At this time I do have a sheet of
 19 paper. Could I approach and give this to Mr. Williams, and
 20 we can put it on the screen so everyone can see it?
 21 THE COURT: Sure.
 22 BY MR. SWIER:
 23 Q. Keith, you indicated to the Judge before you are
 24 familiar with the system that is used by NAT in this case.
 25 Is that right?

1 Q. Take us through the first step that grandma does.
 2 **A. The first step is obviously she would pick up her**
 3 **telephone and would be given dial tone by the local**
 4 **exchange carrier, the LEC.**
 5 Q. That would be the LEC, the local exchange carrier in
 6 Fargo?
 7 **A. Correct. Depending on the digits she dialed, for**
 8 **instance, if she wanted to dial someone on the Crow Creek**
 9 **Reservation, it would be 605-477. 605 is the area code or**
 10 **NPA. That's how you discern what area of the country you**
 11 **are calling.**
 12 Q. The 605 area code is obviously all of South Dakota.
 13 **A. All of South Dakota, correct. They only have one area**
 14 **code. 477 designates Ft. Thompson, Crow Creek. So 477**
 15 **anything would go to Ft. Thompson.**
 16 Q. Grandma picks up the phone and dials 605 for the area
 17 code in South Dakota. 477 is the prefix for Ft. Thompson.
 18 Correct?
 19 **A. Correct.**
 20 Q. Let's say it's 477-1111, for example. That then would
 21 be the number grandma would be using to call her friend in
 22 Crow Creek.
 23 **A. Ft. Thompson.**
 24 Q. Okay. What happens next after she picks up the phone
 25 and dials?

1 **A. Well, the switch in Fargo would then go to the LERG,**
 2 **which is the local exchange routing guide. It's an**
 3 **industry standard database that lists switch identifiers,**
 4 **the NPAs NXXs they serve and how to get to them.**
 5 **Q.** So the LERG, what does that stand for again, just so
 6 we're straight?
 7 **A. Local exchange routing guide.**
 8 **Q.** Tell me if I'm wrong. That's a database in the
 9 industry that shows how grandma's call would initially get
 10 routed from Fargo to Ft. Thompson.
 11 **A. Sure. I mean ultimately TeleCourier manages that**
 12 **database and keeps track of all the switches in North**
 13 **America and the rate centers and phone numbers that would**
 14 **be served by those switches.**
 15 **Q.** So grandma picks up the phone. She dials her
 16 Ft. Thompson number. It's then -- that's Step No. 1. Then
 17 what happens? You go to the LERG.
 18 **A. Yes. So the LERG would tell you in this case to get**
 19 **to Ft. Thompson, you would go to SDN.**
 20 **Q.** What does SDN stand for?
 21 **A. South Dakota Network.**
 22 **Q.** Where is that located?
 23 **A. Sioux Falls.**
 24 **Q.** Is it safe to say -- let's think about this as a road
 25 going somewhere. Is that our first leg on the road?

1 WideVoice's facility in Los Angeles.
 2 **A. That's correct.**
 3 **Q.** What leg of the route then would SDN to Los Angeles
 4 be?
 5 **A. I would say that's 2.**
 6 **Q.** That's the second place. When grandma's call then
 7 gets routed to WideVoice's high-tech facility in Los
 8 Angeles, then what happens?
 9 **A. At that point that is the end of what would be the**
 10 **traditional telephone call using the TDM PSTN network?**
 11 **Q.** The old network.
 12 **A. Correct. At that point WideVoice takes that call and**
 13 **routes it to Ft. Thompson via IP.**
 14 **Q.** Again, I don't think any of us are technical gurus.
 15 Explain to the Judge what IP is.
 16 **A. IP would be Internet protocol, basically using the**
 17 **Internet, as opposed to the public switch telephone**
 18 **network.**
 19 **Q.** Is that done based on the technology that's now
 20 available to both WideVoice and what's on the Reservation?
 21 **A. Yes. I mean ultimately most new telephone,**
 22 **telecommunication deployments would be using IP at this**
 23 **point.**
 24 **Q.** So then from the WideVoice facility in Los Angeles to
 25 Ft. Thompson, what leg of the journey would that be?

1 **A. It would be your first leg into getting to 605-477.**
 2 **Yes. You have to go to South Dakota Network to get to**
 3 **there.**
 4 **Q.** When grandma's phone call travels from Fargo to the
 5 South Dakota Network on the way to Ft. Thompson, what is
 6 the next step? Where does that call go?
 7 **A. Once the South Dakota Network gets it, they would see**
 8 **it's destined for Ft. Thompson, in which point they would**
 9 **route the call to WideVoice, who has a switch in**
 10 **Los Angeles.**
 11 **Q.** That's what I want to talk about. Why if the call is
 12 coming from grandma in Fargo down to SDN in Sioux Falls
 13 with the ultimate termination stop being Ft. Thompson, why
 14 is it going from SDN to WideVoice's facility in
 15 Los Angeles?
 16 **A. Native American Telecom does not own their own**
 17 **telephone infrastructure, per se, switching equipment in**
 18 **Ft. Thompson.**
 19 **Q.** So if anyone is going to make a call to
 20 Ft. Thompson, be it from Fargo, Canada, wherever, you never
 21 have that interconnection directly from SDN to
 22 Ft. Thompson. It just doesn't exist. Right?
 23 **A. Correct.**
 24 **Q.** So we go from Fargo, the call travels to Sioux Falls,
 25 because there is no facility in Ft. Thompson, it goes to

1 **A. I would say that's 3.**
 2 **Q.** Okay. So grandma's call goes from Fargo to SDN in
 3 Sioux Falls to Los Angeles and ultimately ends in
 4 Ft. Thompson.
 5 **A. Correct.**
 6 **Q.** Explain then the technology that is present at
 7 Ft. Thompson that makes this whole thing work.
 8 **A. In Ft. Thompson obviously they have a router which**
 9 **terminates that IP leg, at which point, depending on where**
 10 **grandma is at within the Reservation, they also have a**
 11 **wireless network out there, WiMax, that would direct where**
 12 **to send that phone call.**
 13 **Q.** Is that any different than any other system in the
 14 country?
 15 MR. KNUDSON: Objection. Foundation.
 16 THE COURT: Overruled. You may answer.
 17 **A. Not at its core, no. It's pretty traditional in that**
 18 **sense. WiMax is a little different, but this is what would**
 19 **be considered the last mile. It's how you reach the end**
 20 **users from the local rate center.**
 21 **Q.** Again, one of the keys here, tell me if I'm wrong, is
 22 that there's simply not the infrastructure equipment for
 23 any call to go from SDN directly to the Ft. Thompson-Crow
 24 Creek Reservation.
 25 **A. Correct. That switching equipment is expensive. I**

1 mean ultimately Midstate, who serves Ft. Thompson as the
 2 traditional LEC in that area, their switching equipment is
 3 in Kimball. It's not in Ft. Thompson, per se, either.
 4 Q. Explain to the Court the kind of high-tech technology
 5 that NAT has invested out on the Crow Creek Reservation?
 6 What is out there? What makes this thing work?
 7 A. Again, they've got a network facility out there that
 8 obviously terminates these IP connections, allows the
 9 wireless WiMax connection to customers throughout the
 10 Reservation, at which point they would deploy within the
 11 end user locations, ATAs, which are basically digital --
 12 analog-to-digital phone converters, or digital-to-analog
 13 phone converters, but allows you to turn that IP signal
 14 into a traditional phone signal. They also within that
 15 network facility house application services, so they have
 16 servers, and they are offering services, as well.
 17 Q. Some pretty serious infrastructure out there?
 18 A. Yes.
 19 Q. Just so I understand this, grandma picks up the phone
 20 in Fargo. She calls her granddaughter in Ft. Thompson.
 21 Dials 605-477-1111. Grandma's call goes to Sioux Falls to
 22 SDN. Because there's no infrastructure from SDN in
 23 Sioux Falls to Ft. Thompson, the call then goes from
 24 Sioux Falls to WideVoice's technology in Los Angeles.
 25 A. Correct, and this leg, too, is over dedicated

1 same.
 2 Q. But ultimately grandma's call from Fargo gets to
 3 granddaughter in Ft. Thompson on the Reservation because of
 4 the facility that's been built on the Reservation?
 5 A. That is correct.
 6 Q. Keith, we're talking in this case, also, about
 7 conference calling. We have seen how a single call from a
 8 grandma to a granddaughter works.
 9 Do this. Put a point down in Florida, put a point in
 10 Texas, and put a point in New York. Let's say those three
 11 points are involved in a business dealing, and instead of
 12 traveling to wherever, they want to conduct their business
 13 meeting via a conference call.
 14 A. Okay.
 15 Q. Explain to the Court then how this conference calling
 16 with these three companies works.
 17 A. In that case, I mean depending on the number you dial
 18 for that conference call, that still would decide where the
 19 call routes. In this case if they are dialing 605-477-1112
 20 is their conference bridge --
 21 Q. Then all three of them would use the same number?
 22 A. They would all dial the same number. That's correct.
 23 So when they dial that number, the routing again would stay
 24 the same. In the end you would end up going to South
 25 Dakota Network, who would tell you to route that call to

1 facilities. I mean WideVoice is paying for dedicated
 2 services back to SDN. So the trunk side of this call is on
 3 private line, leased line facilities.
 4 Q. So the call travels down on that private leased line
 5 from Sioux Falls to Los Angeles. WideVoice's technology
 6 takes grandma's call and ships it to the facilities on the
 7 Reservation in Ft. Thompson.
 8 A. That is correct.
 9 Q. Keith, let's say when grandma picks up the phone in
 10 Fargo, her local exchange is let's just say AT&T. Would
 11 the process be any different if AT&T were that provider?
 12 A. No. I mean the local exchange carrier, as well as the
 13 IXC, who would be the interexchange carrier, or the
 14 long-distance carrier, it wouldn't matter. Again, the LERG
 15 would tell you if you are dialing Ft. Thompson, regardless
 16 of where you are coming from, you would go to SDN, and then
 17 to the Ft. Thompson rate center.
 18 Q. So AT&T would use the same routing system, same
 19 dedicated line system as what is being used here. Is that
 20 right?
 21 A. That is correct.
 22 Q. How about Sprint instead of AT&T? Let's put Sprint in
 23 that situation. Would that be the same?
 24 A. Two and three for sure are always the same. One, you
 25 could be anywhere. The end is always going to look the

1 Ft. Thompson. To get there, it would go via WideVoice's
 2 dedicated facilities to Los Angeles, at which point we
 3 would redirect the call back to Ft. Thompson where they
 4 house and own their own conferencing equipment.
 5 Q. If we have three people on this conference call, is
 6 the way that that call is routed, ultimately terminating
 7 and ending in Ft. Thompson, any different than grandma's
 8 call to granddaughter on the Reservation?
 9 A. It is not.
 10 Q. It's the exact same?
 11 A. Yes.
 12 Q. Let me ask you this. What if Sprint were the company
 13 that -- let's say they were using Sprint's calling
 14 conference services. All right? How does that change this
 15 route?
 16 A. In that case you would need to know where the Sprint
 17 local was. But if Sprint were in Florida, say, I mean it
 18 would end up the same. All these people would call. It
 19 would go to the LERG database, which would say send that
 20 call to whatever that NPA NXX was, and that's where that
 21 call would terminate.
 22 Q. So that route is the same, whether it's Sprint, AT&T,
 23 or a conference calling company.
 24 A. Correct. I mean in the end, depending on the number
 25 you dial, the call will always go to whatever the rate

1 Plaintiff then?
 2 THE COURT: The Clerk will mark it for you.
 3 MR. KNUDSON: We'll solve that when we get to it.
 4 CROSS-EXAMINATION
 5 BY MR. KNUDSON:
 6 Q. So, Mr. Williams, Scott Knudson. I represent Sprint
 7 Communications, the Plaintiff in this action. I believe
 8 you testified that you hadn't been to Ft. Thompson yet. Is
 9 that correct?
 10 A. That is correct.
 11 Q. Is this your first time to South Dakota?
 12 A. It is not.
 13 Q. Now, I'd like you to turn your attention to this
 14 schematic. I believe it's still showing up on the screen.
 15 Do you have it in front of you?
 16 A. Yes.
 17 Q. What you have described then is how I believe you said
 18 all calls that could end up at the Ft. Thompson 477
 19 exchange are routed. Is that correct?
 20 A. That is correct.
 21 Q. If I understand your testimony correctly, from the
 22 schematic, all the traffic that ends up at the Ft. Thompson
 23 477 exchange goes first to this switch owned by South
 24 Dakota Network. Is that correct?
 25 A. Correct.

1 Q. Is it reverse? Freeconferencecall.com owns WideVoice?
 2 A. I don't know that. There's definitely a business
 3 dealing there.
 4 Q. Then if I understand correctly then, you switched all
 5 of this traffic intended back to Ft. Thompson 477 exchange
 6 from Los Angeles back, and if I follow the schematic
 7 correctly, it ends up back at a router owned by South
 8 Dakota Network?
 9 A. Yes. Basically this would be the demarc or the edge
 10 of the equipment today owned by WideVoice. So, yes, it
 11 would end up back at an SDN router here in South Dakota.
 12 Q. From the Sioux Falls switch owned by South Dakota
 13 Network, it goes over the fiberoptic South Dakota Network
 14 phones to Ft. Thompson. Isn't that true?
 15 A. Yes.
 16 Q. Now, you have this little cloud between a router in
 17 Los Angeles and a router in Sioux Falls. It says ATT IP
 18 Network. Can you explain what that is?
 19 A. Sure. The internet is obviously -- I mean ultimately
 20 incumbents own the networks, so everyone is paying access
 21 to get on the network. In this case WideVoice pays AT&T
 22 for dedicated facilities to access the Internet in
 23 Los Angeles.
 24 Q. So the calls that go from your WideVoice switch in
 25 Los Angeles back to the South Dakota Network switch in

1 Q. And that's based on the LERG data you've analyzed.
 2 Correct?
 3 A. Yes.
 4 Q. You believe the LERG data to be something you can rely
 5 on?
 6 A. I would say so.
 7 Q. And if I follow this schematic correctly, then all
 8 this traffic that is intended for the Ft. Thompson 477
 9 exchange goes out to WideVoice in Los Angeles. Correct?
 10 A. Yes.
 11 Q. You've reviewed the Amy Clouser Affidavit. Haven't
 12 you?
 13 A. Yes.
 14 Q. You agree with her analysis that is where the traffic
 15 goes?
 16 A. Yes.
 17 Q. There is a switch owned by WideVoice in Los Angeles.
 18 Correct?
 19 A. Yes.
 20 Q. You receive traffic from other areas of the country,
 21 as well, traffic destined for 477. Correct?
 22 A. Correct.
 23 Q. In fact, let me ask you this. Freeconferencecall.com,
 24 is that a company owned by WideVoice?
 25 A. It is not.

1 Sioux Falls are an Internet protocol?
 2 A. Correct. They are using the public Internet.
 3 Q. You use this term "voiceover Internet protocol." Is
 4 that right?
 5 A. Yes.
 6 Q. Is that the kind of signal that's going from the
 7 switch in Los Angeles to the South Dakota Network?
 8 A. It is.
 9 Q. I want to clarify then what you call the traditional
 10 service, when grandma was calling her granddaughter. The
 11 traditional service ends at the South Dakota Network switch
 12 in Sioux Falls. Correct?
 13 A. It does not. It actually ends at the WideVoice switch
 14 in Los Angeles.
 15 Q. I see. The traditional, that would be the first leg.
 16 The second leg, that's a traditional.
 17 A. Correct. That would be using traditional TDM
 18 facilities.
 19 Q. Would we call that the legacy network?
 20 A. Yes. That would be the PSTN.
 21 Q. Now, you indicated that Native American Telecom is
 22 using WiMax technology. Are you familiar with that
 23 technology?
 24 A. I am somewhat, yes.
 25 Q. That's a radio-based technology. Correct?

1 **A. The services are on the Reservation. Our bridge is on**
 2 **the Reservation.**
 3 **Q.** But they are outside the Reservation. Right?
 4 **A. Yes.**
 5 **Q.** So when they hear -- the person in New York hears an
 6 answer from the person in Florida, that person in New York
 7 isn't on the Reservation. Right?
 8 **A. Correct.**
 9 **Q.** And the voice, the sound that is carrying over to the
 10 person in New York is coming off the Reservation. Correct?
 11 **A. Yes.**
 12 **Q.** Likewise, when the person in Florida is talking, that
 13 person's voice is going into the Reservation. Correct?
 14 **A. Yes.**
 15 **Q.** Through a roundabout way. It has to go to Los Angeles
 16 first.
 17 **A. Yes.**
 18 **Q.** That's coming from outside the boundaries of the
 19 Reservation. Isn't it?
 20 **A. Yes.**
 21 **Q.** Now, you mentioned, and we heard from Mr. Williams,
 22 about the WiMax technology, and that's kind of a step up,
 23 isn't it, from Wi-Fi technology?
 24 **A. It's a different technology.**
 25 **Q.** It has the ability to go farther out. Doesn't it?

1 **A. Yes.**
 2 **Q.** You heard Mr. Williams say it might go out as far as
 3 20 miles. Right?
 4 **A. I heard him say that.**
 5 **Q.** Do you dispute that?
 6 **A. The tower we built projects a signal around two miles.**
 7 **But that technology, by building a larger tower, you could**
 8 **get it to go that far.**
 9 **Q.** You are talking about expanding your services to other
 10 parts of the Reservation. Aren't you?
 11 **A. Yes.**
 12 **Q.** It's possible for these radio waves to go outside the
 13 boundaries of the Reservation.
 14 **A. Depending where they are located.**
 15 **Q.** They don't stop at the boundary. Do they?
 16 **A. We can erect a tower and point our antennas towards**
 17 **the Reservation.**
 18 **Q.** The Reservation is irregular in shape, isn't it?
 19 **A. Yes.**
 20 **Q.** In order to get coverage over all the Reservation, you
 21 have to go outside the boundaries, as well, won't you?
 22 **A. Depending where the tower is positioned.**
 23 **Q.** But it's possible.
 24 **A. It's possible.**
 25 **Q.** There's nothing from the boundary itself that would

1 stop the radio waves from going outside the boundaries of
 2 the Reservation. Correct?
 3 **A. Correct.**
 4 **Q.** Let's go back to the handwritten map. This person who
 5 is calling here from New York, and they make a connection
 6 to the person in Florida, and maybe they even talk to the
 7 person in Texas at the same time. Do they pay per minute
 8 for that call?
 9 **A. Depending what type of arrangements they have with**
 10 **their long-distance carriers.**
 11 **Q.** In fact, isn't it true, Mr. Reiman, that your business
 12 model, looking for minutes of usage, depends on callers who
 13 effectively have unlimited calling plans?
 14 **A. I am not aware of that.**
 15 **Q.** That's how people can talk for an hour without
 16 worrying what it cost. Isn't that true?
 17 **A. You can set up the plans.**
 18 **Q.** But if you are paying 25 cents a minute, you would be
 19 more mindful of the cost of the call. Wouldn't you?
 20 **A. If who is paying the 25 cents?**
 21 **Q.** The initial caller.
 22 **A. They would be mindful, yes.**
 23 **Q.** In fact, if it's an unlimited calling plan, the
 24 interexchange carriers, the long-distance carriers, they're
 25 not getting any additional revenue from that call. Are

1 they?
 2 MR. SWIER: Objection. Lack of foundation and
 3 speculation.
 4 THE COURT: Overruled. You may answer, if you
 5 know.
 6 **A. I don't know.**
 7 **Q.** You can't say one way or the other if there's any
 8 incremental revenues from one of your calls to the
 9 long-distance carrier. Can you?
 10 MR. SWIER: Same objection.
 11 THE COURT: Overruled. You may answer.
 12 **A. I don't know what plan they are on.**
 13 **Q.** My question is you don't know if the long-distance
 14 carrier gets any more incremental revenue from the person
 15 using your conference bridge?
 16 **A. I don't know.**
 17 **Q.** But if the caller in New York or Florida or Texas has
 18 one of these unlimited calling plans, that person wouldn't
 19 pay any more to be on your bridge. Would that person?
 20 **A. If they have an unlimited plan, no.**
 21 **Q.** In fact, as you testified earlier in your direct, your
 22 business model depends on lots of people calling in on your
 23 conference bridge. Doesn't it?
 24 **A. Yes.**
 25 **Q.** When you set up this network and based your business

1 may be submitted to binding arbitration. It's not
2 mandatory.

3 THE COURT: The objection is sustained. I can
4 read the document myself, too.

5 MR. KNUDSON: If we agree it's unambiguous, that
6 would be sufficient with respect for Exhibit 105.

7 BY MR. KNUDSON:

8 Q. Mr. Reiman, I'm handing you what's been marked for
9 identification purposes by the Clerk as Plaintiff's Exhibit
10 106. Take a moment to look at it and tell me if you can
11 identify it.

12 A. **It appears to be the Joint Venture Agreement Between**
13 **the Crow Creek Sioux Tribe and Native American Telecom.**

14 Q. Is that Native American Telecom Enterprise?

15 A. **Crow Creek Sioux Tribe and Native American Telecom**
16 **Enterprise, LLC, and WideVoice Communications, Inc.**

17 Q. If you go back and see the signature on Page 33.

18 A. **Yes.**

19 Q. Is that again Mr. DeJordy's signature?

20 A. **I don't have one with a signature on it. I have one**
21 **with Brandon Sazue's signature on it.**

22 Q. There should be another Page 33.

23 A. **Yes. That is the signature of Gene DeJordy.**

24 Q. So we agree this is a copy of that Joint Venture
25 Agreement?

1 A. **It's Native American Telecom, LLC, yes.**

2 Q. So Native American Telecom-CC is going to promote
3 services outside the exterior boundaries, and that's one of
4 the purposes of this Joint Venture. Is that right?

5 A. **Yes, it has the capabilities of doing that.**

6 Q. Now, let's take a look then of your understanding of
7 the deal terms here that Crow Creek Sioux Tribe, Section
8 1.03, made a capital contribution in exchange for 51
9 percent of the membership units of the LLC by contributing
10 what, sir?

11 MR. SWIER: Objection. I believe that relates to
12 the financial matters earlier discussed as to how we were
13 going to handle this.

14 THE COURT: Sustained. I will allow this
15 question at the end of the hearing.

16 MR. KNUDSON: This has already been made a public
17 record. This is one of the exhibits he filed not under
18 seal. Having to delay asking the question again.

19 MR. SWIER: Obviously the exhibit that I admitted
20 doesn't have the information for a reason, and the reason
21 is because it's proprietary.

22 THE COURT: Can you point me to where the
23 information is?

24 MR. KNUDSON: Yes, Your Honor. Let's just take a
25 look here. Section 1.03. "At the closing date, CCST will

1 A. **Yes.**

2 MR. KNUDSON: I offer 106.

3 MR. SWIER: No objection, Your Honor.

4 THE COURT: 106 is received.

5 BY MR. KNUDSON:

6 Q. All right. Let's look here at a few of these
7 provisions. Page 5, if you could turn to the last recital
8 called the "Whereas." I'm directing your attention,
9 Mr. Reiman, to what I have highlighted here. Do you see
10 the language, "an array of other telecommunication services
11 outside the exterior boundaries of the Crow Creek Indian
12 Reservation"?

13 A. **Yes.**

14 Q. What are the services that Native American Telecom is
15 going to provide outside the exterior boundaries of the
16 Reservation?

17 A. **It's yet to be determined. Business is trying to**
18 **develop out there.**

19 Q. But if I understand correctly, the entity that is
20 being formed here is Native American Telecom-CC.

21 A. **Yes.**

22 Q. Crow Creek.

23 A. **Yes.**

24 Q. It's going to rename Native American Telecom to Native
25 American Telecom - Crow Creek. Right?

1 contribute the necessary easements and other land rights."
2 That's the quid pro quo.

3 THE COURT: Mr. Swier?

4 MR. SWIER: It talks about easements and other
5 land rights. It doesn't talk in there specifically as to
6 what was given with easement land rights. Again, I don't
7 have any trouble if we want to have that information, but
8 let's have it all grouped together with the financial
9 issues we've discussed that we are going to do later.

10 THE COURT: Mr. Knudson, did you plan to go into
11 anything more than what is contained on Page 6?

12 MR. KNUDSON: I have a question about 1.04. I'm
13 happy to hold off the dollar amount and keep that --

14 THE COURT: I'm just trying to find out. Are you
15 just asking him to say that they can ask for necessary
16 easement and land rights, or do you want him to go into the
17 particular of what those were?

18 MR. KNUDSON: I don't need the particulars.

19 THE COURT: The objection is overruled.

20 BY MR. KNUDSON:

21 Q. Mr. Reiman, as part of the deal, the Crow Creek Sioux
22 Tribe contributed land rights and easements where you could
23 erect your equipment. In exchange, they got 51 percent of
24 the ownership membership units of the LCC. Right?

25 A. **Yes.**