

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

<p>In Re:</p> <p>SPRINT COMMUNICATIONS COMPANY L.P.,</p> <p style="text-align: center;">Complainant,</p> <p style="text-align: center;">v.</p> <p>NATIVE AMERICAN TELECOM, LLC.,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;">Docket No. TC10-026</p> <p style="text-align: center;">AT&amp;T Corp.'s Response in Support of Sprint's Motion for Summary Judgment</p>
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AT&T Corp., formerly AT&T Communications of the Midwest, Inc., ("AT&T") hereby submits this response in support of Sprint's Motion for Summary Judgment seeking a declaration from the Public Utilities Commission of South Dakota ("Commission") that:

- (1) Native American Telecomm, LLC ("NAT") cannot provide telecommunications anywhere within the State of South Dakota without a certificate of authority from the Commission;
- (2) NAT cannot invoice for intrastate telecommunications until it has a lawful tariff on file with the Commission;
- (3) NAT's invoices to Sprint for intrastate service that NAT has issued without a certificate of authority and lawful tariff on file with the Commission are void; and
- (4) The Commission has sole authority to regulate Sprint's interexchange services within the State of South Dakota and conversely, the Crow Creek Sioux Tribal Utility Authority can not regulate Sprint's activity in this State.

AT&T joins in Sprint's Request for the declaration outlined above. As Sprint explains in its Memorandum of Law in support of the Motion, the state law is very clear. Under SDCL Section 49-31-3, a telecommunications company seeking to provide local exchange or interexchange service must be certificated by the Commission. Moreover, it is a class 1 misdemeanor to

provide such service without a Commission certificate. It is undisputed that NAT is operating in South Dakota without a certificate from the Commission. Consequently, Sprint's Motion and the declarations it requests are unequivocally supported by the law of the State of South Dakota.

Accordingly, for the reasons set forth in Sprint's Motion, the Commission should grant Sprint's Motion for Summary Judgment as a matter of law. With respect to declarations 3 and 4 on the preceding page, the Commission should apply its decision to any similarly situated interexchange carrier that has received an invoice from NAT.

Respectfully submitted this 1<sup>st</sup> day of February, 2013.

/s/ filed electronically  
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