

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN RE:

Docket No. TC10-026

SPRINT COMMUNICATIONS
COMPANY L.P.,

Complainant,

v.

NATIVE AMERICAN TELECOM,
LLC,

Respondent.

**AFFIDAVIT OF
AMY S. CLOUSER**

[PUBLIC VERSION]

STATE OF KANSAS)
) ss
COUNTY OF JOHNSON)

Amy S. Clouser, being duly sworn, states under oath as follows:

1. Sprint is a Delaware limited partnership with its principal place of business in Overland Park, Kansas. It is authorized to do business in South Dakota, certificated by the South Dakota Public Utilities Commission to provide intrastate long distance services in South Dakota and authorized by the Federal Communications Commission to provide interstate long distance services. Sprint has never consented to being regulated by the Crow Creek Sioux Tribal Utility Authority.

2. Sprint is a telecommunications company that provides telecommunications services nationwide and, in the context of the issues addressed in this case, operates as an interexchange carrier ("IXC"). As

an IXC, Sprint provides long distance telecommunications services. In a typical situation, when an end user customer places a long distance call, the IXC delivers the call to the network of the local exchange carrier ("LEC") serving the called party. In some cases there is a third party carrier between Sprint's long distance network and the network of the LEC serving the called party.

3. Sprint does not have physical presence on the Crow Creek Sioux Tribe Reservation ("Reservation"). Any traffic directed to NAT is delivered to a switch operated by South Dakota Network ("SDN") in Sioux Falls. From there, all calls to NAT go to a switch operated by Wide Voice Communications in Long Beach, California, which routes the traffic back to the SDN switch in Sioux Falls. Once there, NAT-bound traffic goes over SDN fiber to a Midstate Communications switch in Ft. Thompson, where it is exchanged with NAT. NAT has been and is continuing to provide two-way voice and internet services to individuals and businesses on the Reservation.

4. On September 12, 2009, Sprint recorded the first call directed over its long distance network directed to NAT's NXX number 477.

5. Nat's first invoice to Sprint was dated December 10, 2009. NAT billed Sprint through a third-party billing service called CABS Agent. The December 10, 2009, invoice was for \$18,363.24 for interstate

services and \$181.02 for intrastate services. The intrastate bill covered 3,562 minutes of use. Sprint paid this invoice in full by submitting payment to CABS Agent.

6. NAT's next invoice to Sprint also came from CABS Agent. The invoice was dated January 10, 2010. The January 10, 2010, invoice was for a total of \$10,911.96 and included \$104.93 for [REDACTED] minutes of intrastate telecommunications services. Sprint paid this invoice in full by submitting payment to CABS Agent.

7. NAT's third invoice was dated February 10, 2010 and was for a total of \$[REDACTED], including \$[REDACTED] for intrastate services. Because of the large increase over the January 10, 2010, invoice, Sprint investigated the calls coming into NAT's NXX number. Based on that investigation Sprint determined that the vast majority of the calls coming into NAT's exchange was for "free" conference calling services.

8. Sprint's investigation determined that over 99.9% of the calls were to a few select phone numbers that were being used by so-called "free" conferencing calling services. These conference calling services do not require its users to pay the conferencing company a fee, but instead earn revenue by entering into agreements with local exchange carriers (LEC) to share with the LECs the terminating access charges the LECs charge the IXCs that deliver the traffic generated by the conferencing

company to the LECs. The volume of conference calling business NAT has billed Sprint for has been as much as 99.98% of the total volume of use. In the case of NAT, Sprint identified that the conference calling services were being offered by Free Conferencing Corporation.

9. Sprint objected to NAT's third invoice and demanded a refund of the payments on the December 2009 and January 2010 invoices. NAT has continued to bill Sprint for both interstate and intrastate services. NAT's invoices to Sprint for interstate services total \$ [REDACTED] through August 2012, and \$ [REDACTED] for intrastate services through April 2012, when NAT stopped invoicing Sprint for intrastate services. NAT tendered a refund check on what Sprint paid for intrastate services in December 2009 and January 2010, but Sprint has not cashed the check.

This concludes my affidavit.



Amy S. Clouser

Subscribed and sworn to before
me this 11th day of December, 2012.



Notary Public

