

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

IN THE MATTER OF THE APPLICATION OF)
NEW CINGULAR WIRELESS PCS, LLC, FOR)
DESIGNATION AS AN ELIGIBLE) Docket No. TC11-071
TELECOMMUNICATIONS CARRIER IN)
RURAL STUDY AREAS)

**Opposition of New Cingular Wireless PCS, LLC
to the Petition for Intervention by Native America Yes We Can Foundation**

I. Introduction

Native Yes We Can Foundation (“Native”) filed a Petition to Intervene in the above-captioned proceeding. Interestingly, Native served electronically a copy of its petition on the Executive Director of the Commission but did not file the petition in this docket as required. Nevertheless, New Cingular Wireless PCS, LLC (“AT&T Mobility”) opposes this Petition for Intervention.

II. The Petition Does Not Meet the Necessary Criteria for Intervention

In its Petition, Native claims its purpose “is to provide free computer access, Internet service, and educational training services to Tribal members residing on Indian reservation, and may provide financial assistance, social and economic development assistance and other services to Tribes and tribal members...”¹ Whether it has achieved any of those objectives is unclear. An internet search failed to locate an organization by this name.

¹ Petition of Native Yes We Can Foundation, p. 1.

Native notes that the Commission must undertake a public interest analysis under ARSD section 20:10:32:43.07 and that as a non profit working with Indian reservations, Native provides a unique perspective.² AT&T Mobility agrees that the Commission must undertake a public interest analysis. Under the regulation that analysis includes consideration of the benefits of increased consumer choice, the quality of service, the unique advantages and disadvantages of the applicant's service offering, the applicant's ability to provide the supported services and the impact of multiple designations on the universal service fund. However, the statutory analysis does not include evaluation of the impact of the ETC designation on specific interest groups as opposed to the general public.

In order to be granted status as an intervenor, the petitioner needs to show 1) that the petitioner is specifically deemed by statute to be interested in the matter, 2) that the petitioner is specifically declared by statute to be an interested party or 3) that by the outcome of the proceeding the petitioner will be bound and affected either favorably or adversely with respect to an interest peculiar to the petitioner as distinguished from an interest common to the public or taxpayers in general.³

Native has no specific right to intervene under a statute. Moreover, Native's general interest in matters affecting Indian tribes and tribal members is not different than that of the general public in this docket. The designation of AT&T Mobility as an ETC in Rural Study Areas will benefit all residents in those areas.

² Id., at 2.

³ ARSD Section 20:10:01:15:05

III. Conclusion

For the foregoing reasons, AT&T Mobility respectfully requests Native's Petition for Intervention be denied.

Dated this 22nd day of July, 2011.

NEW CINGULAR WIRELESS PCS, LLC

/s/electronically filed

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served electronically on the 22nd day of July upon the following:

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