

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

**IN THE MATTER OF THE
APPLICATION OF NATIVE
AMERICAN TELECOM, LLC FOR A
CERTIFICATE OF AUTHORITY TO
PROVIDE LOCAL EXCHANGE
SERVICE WITHIN THE STUDY AREA
OF MIDSTATE COMMUNICATIONS,
INC.**

TC11-087
**PETITION TO INTERVENE
OF MIDSTATE
COMMUNICATIONS, INC.**

COMES NOW Midstate Communications, Inc., by and through its undersigned counsel, and, pursuant to SDCL § 1-26-17.1 and A.R.S.D. 20:10:01:15.02 and 20:10:32:04, petitions this Commission for leave to intervene in the above-entitled proceeding.

1. Midstate Communications, Inc. (“Midstate”) is a South Dakota cooperative corporation headquartered in Kimball, South Dakota. Midstate presently operates in ten (10) local telephone exchanges serving approximately 4,373 access lines in the State of South Dakota. Midstate is also a “rural telephone company” as defined in 47 U.S.C. § 153(37) and SDCL § 49-31-1(22).

2. On October 6, 2011, Native American Telecom, LLC (“NAT”), filed with this Commission an Application for Certificate of Authority to provide local exchange service within MidState’s study area off of the Crow Creek reservation (the “Application”). Midstate received this Application on October 12, 2011.

3. Midstate is the incumbent local exchange carrier in the following rural exchange areas: Fort Thompson, Pukwana, Academy, Kimball, Gann Valley, Platte/Geddes, New Holland, Delmont, Stickney, and White Lake. Pursuant to the provisions of each of SDCL § 1-

26-17.1 and A.R.S.D. 20:10:01:15:02 and 20:10:32:04, Midstate is entitled to intervene in the above-entitled proceeding.

4. In its Application, NAT asserts that it shall “provide services only within the study area of Midstate.” See Application at ¶9. No specific study area or areas are identified.

5. In its Application, NAT further asserts that it shall satisfy the requirements imposed by A.R.S.D. 10:10:32:15 within twenty-four months of the later of (1) the date of the Commission’s order granting NAT’s application for a certificate of authority or (2) the date of the Commission order approving any agreements for resale, interconnection or network elements necessary for NAT to provide locate exchange services. See Application at ¶15. NAT’s Application is not sufficient at this time to demonstrate that it has the current and/or future ability to satisfy all service requirement imposed on eligible telecommunications carriers pursuant to 47 U.S.C. § 214(e)(1).

6. This Commission is vested with the authority to grant or deny NAT’s Application. See 47 C.F.R. § 54.101(a) and (b), SDCL § 49-31-71, SDCL § 49-31-75, and A.R.S.D. 20:10:32:15.

7. Midstate has a direct and substantial interest in these proceedings as this Commission’s decision may, directly or indirectly, affect the quality or cost of telecommunications services provided by Midstate to its customers.

8. Midstate desires to intervene in order that it may fully review the Application, receive documents, comment, present testimony, cross-examine witnesses and produce evidence either seeking to clarify or oppose NAT’s Application, to the extent that such actions are required in the above-entitled proceeding. Midstate seeks to make certain that NAT’s Application fully complies with all legal requirements and Commission orders.

WHEREFORE, Midstate respectfully requests that this Commission grant its Petition to Intervene in the above-entitled proceeding with full rights to participate as a formal party.

Dated this 13th day of October, 2011.

Respectfully submitted,



Ryan J. Taylor
Meredith A. Moore
Cutler & Donahoe, LLP
100 N. Phillips Ave., 9th Floor
Sioux Falls, South Dakota 57104-6725
Telephone: (605) 335-4950
Facsimile: (605) 335-4961
ryant@cutlerlawfirm.com
meredithm@cutlerlawfirm.com
Attorneys for Midstate Communications, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was sent electronically to the following on this 13th day of October, 2011:

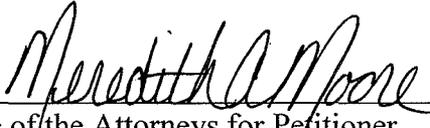
Ms. Patricia VanGerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501
patty.vangerpen@state.sd.us
Telephone: 605-773-3201
Facsimile: 866-757-6031

Ms. Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501
kara.vanbockern@state.sd.us
Telephone: 605-773-3201
Facsimile: 866-757-6031

Ms. Bobbi Bourk
Staff Analyst
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501
Bobbi.bourk@state.sd.us
Telephone: 605-773-3201
Facsimile: 866-757-6031

Mr. Scott R. Swier
Swier Law Firm, Prof. LLC
202 N. Main St.
Avon, SD 57315
scott@swierlaw.com
Telephone: 605-286-3218
Facsimile: 605-286-3219

Mr. Jeff Holoubeck
President
Native American Telecom, LLC
253 Ree Circle
Fort Thompson, SD 574339
jeff@nativeamericantelecom.com
Telephone: 949-842-4478
Facsimile: 562-432-5250



One of the Attorneys for Petitioner