

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

IN THE MATTER OF THE )  
APPLICATION OF CROW CREEK )  
TELECOM, LLC F/K/A NATIVE )  
AMERICAN TELECOM, LLC FOR A )  
CERTIFICATE OF AUTHORITY TO )  
PROVIDE LOCAL EXCHANGE )  
SERVICE WITHIN A PORTION OF )  
THE STUDY AREA OF MIDSTATE )  
COMMUNICATIONS, INC. )

Docket No. TC11-087

**MOTION FOR LEAVE TO TAKE  
DEPOSITION OF SPRINT'S EXPERT  
RANDY G. FARRAR**

The applicant, Crow Creek Telecom, LLC f/k/a Native American Telecom, LLC (CCT), moves the Commission for an Order allowing CCT to take the deposition of Randy G. Farrar, who has been designated by Sprint Communications Company L.P. (Sprint) as a testifying expert. The motion is made pursuant to SDCL 15-6-26(b)(4)(A)(ii) which provides:

Upon motion, the court may order further discovery by other means, subject to such restrictions as to scope and such provisions, pursuant to subdivision (4)(C) of this section, concerning fees and expenses as the court may deem appropriate.

Sprint filed the direct testimony of Mr. Farrar on August 30, 2013. In his direct testimony, Mr. Farrar offers opinions on a number of topics and draws broad and sweeping conclusions. Mr. Farrar is of the opinion that CCT is providing service without a certificate of authority granted by this Commission. Secondly, Mr. Farrar is claiming that CCT is a sham entity. Thirdly, Mr. Farrar offers opinions concerning the profitability of CCT. Finally, Mr. Farrar offers opinions regarding the motivation for

CCT to provide telecommunications services on the Crow Creek Reservation and whether the FCC has taken action to curb what he believes are harmful effects of access stimulation which, according to Mr. Farrar, is the premise underlying CCT's provision of telecommunication services on the Crow Creek Reservation.

Mr. Farrar makes sweeping statements and conclusions and CCT is entitled to probe the factual basis for such broad, sweeping accusations.

In this case, CCT has offered to conduct the deposition of Mr. Farrar at Sprint's home office in Overland Park, Kansas and to pay Mr. Farrar a reasonable expert fee associated with his time in preparing for and furnishing testimony, under oath, at a discovery deposition.

It is common practice in South Dakota for all parties to a contested case to permit depositions of testifying experts. Our rules of civil procedure (SDCL Ch. 15-6) essentially mirror the Federal Rules of Civil Procedure (FRCP). These rules explicitly allow for depositions of opposing experts, without first seeking leave of court. FRCP 26(a)(4)(A).

For the reasons stated, CCT respectfully urges the Commission to issue an order allowing CCT to take the deposition of Randy G. Farrar. The deposition shall be conducted at a suitable location in Overland Park, Kansas and CCT shall pay reasonable fees and expenses associated with Mr. Farrar preparing for and presenting testimony, under oath, at the deposition.

Dated this 20<sup>th</sup> day of September, 2013.

LYNN, JACKSON, SHULTZ & LEBRUN, P.C.

By: /s/Jay C. Shultz

Jay C. Shultz  
PO Box 8250  
Rapid City, SD 57709-8250  
Phone: 605-342-2592  
Fax: 605-342-5185  
jshultz@lynnjackson.com

SWIER LAW FIRM, Prof. LLC

By: /s/Scott R. Swier

Scott R. Swier  
202 N. Main St.  
PO Box 256  
Avon, SD 57315  
Phone: 605-286-3218  
Fax: 605-286-3219  
scott@swierlaw.com

*Counsel for Crow Creek Telecom, LLC f/k/a  
Native American Telecom, LLC*

## CERTIFICATE OF SERVICE

I hereby certify that on the 20<sup>th</sup> day of September, 2013, I sent to:

Ms. Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
500 E. Capitol Ave.  
Pierre, SD 57501  
[patty.vangerpen@state.sd.us](mailto:patty.vangerpen@state.sd.us)

Ms. Karen E. Cremer  
Staff Attorney  
South Dakota Public Utilities Commission  
500 E. Capitol Ave.  
Pierre, SD 57501  
[karen.cremer@state.sd.us](mailto:karen.cremer@state.sd.us)

Mr. Patrick Steffensen  
Staff Analyst  
South Dakota Public Utilities Commission  
500 E. Capitol Ave.  
Pierre, SD 57501  
[patrick.steffensen@state.sd.us](mailto:patrick.steffensen@state.sd.us)

Mr. Jeff Holoubek  
President  
Crow Creek Telecom, LLC  
f/k/a Native American Telecom, LLC  
253 Ree Circle  
Fort Thompson, SD 574339  
[jeff@nativeamericantelecom.com](mailto:jeff@nativeamericantelecom.com)

Mr. William VanCamp  
Olinger, Lovald, McCahren & Reimers, P.C.  
117 East Capitol  
PO Box 66  
Pierre, SD 57501-0066  
[bvancamp@olingerlaw.net](mailto:bvancamp@olingerlaw.net)

Mr. Scott G. Knudson  
Briggs and Morgan, PA.  
80 S. Eighth St.  
2200 IDS Center  
Minneapolis, MN 55402  
[sknudson@briggs.com](mailto:sknudson@briggs.com)

Mr. Phillip Schenkenberg  
Briggs and Morgan, PA.  
80 South Eighth Street  
2200 IDS Center  
Minneapolis, MN 55402  
[pschenkenberg@briggs.com](mailto:pschenkenberg@briggs.com)

Mr. Tom D. Tobin  
422 Main St.  
PO Box 730  
Winner, SD 57580  
[tobinlaw@gwtc.net](mailto:tobinlaw@gwtc.net)

Mr. Jason D. Topp  
Corporate Counsel  
Qwest Corporation dba CenturyLink  
200 S. Fifth St., Room 2200  
Minneapolis, MN 55402  
[jason.topp@centurylink.com](mailto:jason.topp@centurylink.com)

Mr. Thomas J. Welk  
Boyce Greenfield Pashby & Welk LLP  
101 N. Phillips Ave., Ste. 600  
Sioux Falls, SD 57117-5015  
[tjwelk@bgpw.com](mailto:tjwelk@bgpw.com)

Ms. Diane C. Browning  
6450 Sprint Parkway  
Mailstop: KSOPHN0212-2A511  
Overland Park, KS 66251  
[diane.c.browning@sprint.com](mailto:diane.c.browning@sprint.com)

Mr. Richard D. Coit  
SDTA  
PO Box 57  
Pierre, SD 57501-0057  
[richcoit@sdtaonline.com](mailto:richcoit@sdtaonline.com)

Mr. Jason R. Sutton  
Boyce Greenfield Pashby & Welk LLP  
101 N. Phillips Ave., Ste. 600  
Sioux Falls, SD 57117-5015  
[jrsutton@bgpw.com](mailto:jrsutton@bgpw.com)

Ms. Meredith A. Moore  
Cutler & Donahoe, LLP  
100 N. Phillips Ave., 9th Floor  
Sioux Falls, SD 57104-6725  
[meredithm@cutlerlawfirm.com](mailto:meredithm@cutlerlawfirm.com)

by electronic mail, a true and correct copy of the foregoing **Motion for Leave to Take Deposition of Sprint's Expert Randy G. Farrar** relative to the above-entitled matter.

*/s/Jay C. Shultz*  
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Jay C. Shultz