

**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 A)
PORTION OF THE STUDY AREA OF)
MIDSTATE COMMUNICATIONS, INC.)

**APPLICATION FOR
CERTIFICATE OF
AUTHORITY**

Native American Telecom, LLC (“NAT” or “Company”) hereby respectfully submits this application for a certificate of authority to provide local exchange and interexchange service within the Crow Creek Sioux Tribe Reservation which is within the study area of MidState Communications, Inc. (“MidState”), pursuant to ARSD 20:10:32:03, 20:10:32:15, and 20:10:24:02. NAT is a tribally-owned full-service telecommunications carrier operating on the Crow Creek Sioux Tribe Indian Reservation pursuant to an *Order Granting Approval To Provide Telecommunications Service* by the Crow Creek Sioux Tribe Crow Creek Utility Authority dated October 28, 2008. Through this application, NAT seeks authority from the SD PUC to offer service within the Crow Creek Sioux Tribe Reservation.

This application seeks to provide facilities-based basic telephone service to compliment the Company’s advanced broadband services. NAT will provide telecommunications services using its own advanced facilities. As demonstrated herein, NAT has the required technical, financial, and managerial capabilities to meet the requirements to provide local exchange services in South Dakota off of the Crow Creek Sioux Tribe Reservation.

NAT provides the following information as required by ARSD 20:10:32:03:

(1) The applicant's name, address, telephone number, facsimile number, web page URL, and E-mail address (20:10:24:02(3) & 20:10:32:03 (3)):

Native American Telecom, LLC
253 Ree Circle
Fort Thompson, South Dakota 57339
Telephone: 949-842-4478
Facsimile: 562-432-5250
Web page: NativeAmericanTelecom.com
Email address: jeff@nativeamericantelecom.com

(2) A description of the legal and organizational structure of the applicant's company (20:10:24:02(2) & 20:10:32:03 (2)):

NAT is a tribally-owned telecommunications company organized as a limited liability company under the laws of South Dakota.

(3) The name under which applicant will provide local exchange services if different than in subdivision (1) of this section 20:10:24:02(3) & 20:10:32:03 (3)):

Same name as in subdivision (1).

(4) The location of the applicant's principal office, if any, in this state and the name and address of its current registered agent, if applicable (20:10:24:02(5) & 20:10:32:03 (4)):

Native American Telecom, LLC
253 Ree Circle
Fort Thompson, South Dakota 57339
Current Registered Agent: Scott R. Swier, 133 N. Main Street, P.O. Box 256, Avon, South Dakota 57315

(5) A copy of its certificate of authority to transact business in South Dakota from the secretary of state (20:10:24:02(4) & 20:10:32:03 (5)):

A copy of NAT's certificate of authority is attached as Exhibit A.

(6) A description of the applicant's experience providing any telecommunications services in South Dakota or in other jurisdictions, including the types of services provided, and the dates and nature of state or federal authorization to provide the services. (20:10:32:03 (6)):

NAT is a tribally-owned full service telecommunications carrier currently providing service on the Crow Creek Sioux Tribe Reservation pursuant to an *Order Granting Approval To Provide Telecommunications Service* by the Crow Creek Sioux Tribe Crow Creek Utility Authority dated October 28, 2008. NAT's ownership structure consists of the Crow Creek Sioux Tribe (51%) ("Tribe"), Native American Telecom Enterprise, LLC (25%) ("NAT Enterprise"), and WideVoice Communications, Inc. (24%) ("WideVoice").¹

NAT provides high-speed Internet access, basic telephone, and long-distance services on and within the Crow Creek Sioux Tribe Reservation. NAT's services are presently provided exclusively within the exterior boundaries of the Reservation. As a result of its efforts, NAT has created jobs and provided much-needed economic opportunities on the Reservation.²

¹ For sake of clarity, it should be noted that NAT ENTERPRISE is a telecommunications development company and is a separate and distinct entity from NAT. The Tribe is a federally recognized Indian tribe with its tribal headquarters located on the Crow Creek Sioux Tribe Reservation in Fort Thompson, South Dakota.

² The lack of sufficient telephone and other telecommunications services upon Native American reservations has been a long-standing problem. While 94% of all Americans have at least one telephone in their home, the Federal Communications Commission ("FCC" or "Commission") has found that only 47% of Native Americans living on reservations or other tribal lands have telephone service. The FCC has determined that this lower telephone subscribership is "largely due to the lack of access to and/or affordability of telecommunications services in these areas." *In re Federal-State Joint Board on Universal Services; Promoting Development and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, 15 FCC Rcd. 12208, ¶¶ 20, 26 (2000).

The FCC has also found that "by enhancing tribal communities' access to telecommunications, including access to interexchange services, advanced telecommunications, and information services, we increase tribal communities' access to education, commerce, government and public services." *Id.* ¶ 23; *see also* Tracey A. LeBeau, *Reclaiming Reservation Infrastructure: Regulatory and Economic Opportunities for Tribal Development*, 12 *Stan. L & Pol'y Rev.* 237, 238 (2001) ("Reservation infrastructures, including basic services such as water, electricity, gas and telecommunications, are currently incapable of supporting tribal populations").

In 1997, the Crow Creek Sioux Tribal Council established the Crow Creek Sioux Tribe Utility Authority for the purpose of planning and overseeing utility services on the Reservation and to promote the use of these services “to improve the health and welfare of the residents.” On August 19, 2008, the Tribe issued its “Crow Creek Indian Reservation – Telecommunications Plan to Further Business, Economic, Social, and Educational Development.”

On October 28, 2008, the Tribal Utility Authority entered its “Order Granting Approval to Provide Telecommunications Service” (“Approval Order”). Under this Approval Order, NAT was “granted authority to provide telecommunications service on the Crow Creek Reservation subject to the jurisdiction of the laws of the Crow Creek Sioux Tribe.” As a result of the Approval Order, NAT filed two Access Service Tariffs governing termination of telephone traffic on the Reservation. One Access Tariff was filed with the Federal Communications Commission for interstate traffic. A second Access Tariff was filed with the Tribal Utility Authority.

In September 2009, pursuant to the Approval Order, and after over one year of planning and infrastructure development, NAT launched one of the first new tribally-owned telephone systems in the United States. The telephone and advanced broadband network system on the Reservation enables the Tribe to pursue new economic development opportunities. The Tribe describes its advanced telecommunications system as a vehicle for “paving the way for much-needed business, economic, social and educational development on the Crow Creek Reservation.” Specifically, the broadband network supports high-speed broadband services, voice service, data and Internet access, and multimedia.

NAT has physical offices, telecommunications equipment, and telecommunications towers on the Reservation. NAT also provides a computer training facility with free Internet and telephone service to tribal members. NAT will soon open a new stand-alone Internet Library and Training Facility, which will include Internet stations and educational facilities for classes.

Specifically, NAT's activities on the Reservation include:

- NAT provides 110 high-speed broadband and telephone installations at residential and business locations on the Reservation. Additional installations are taking place on a consistent basis.
- NAT has established an Internet Library with six (6) work stations that provide computer/Internet opportunities for residents that do not otherwise have access to computers.
- The demand for the Internet Library's services is so great that NAT built an additional facility on the Reservation that will serve as a full-service communications center offering free Internet, online education classes, computer classes and instruction, and free telephone access to individuals who would otherwise not have access to even these basic services. This state-of-the-art facility will open later this year.
- NAT subsidizes these telecommunications services by providing them free-of-charge to Tribal members. Without NAT's subsidies, most of the Tribal members would not be able to afford these telecommunications services.
- NAT has enabled the Reservation to escape the unfortunate and long-standing circumstances that have prevented economic growth. Before NAT's efforts, the Tribal members' inability to pay for telecommunications services was a primary reason that they were not provided with access to these modern services. As such, without the ability to pay for these modern services, economic growth and viability were impossible. Now, however, because of NAT, residents are building their own websites to sell their unique native crafts over the Internet. These unprecedented economic opportunities will continue to grow as Tribal members' familiarity with modern telecommunications services increases.
- NAT has created seven jobs (three full-time and four part-time) and an office location on the Reservation. These employment opportunities are substantial considering the well-documented fact that the Reservation's unemployment rate is estimated to be between eighty (80) and ninety (90) percent.
- NAT's business structure is composed of both Tribal and private entity ownership. As a result of this unique "tribal-private entity" partnership, NAT has

attracted unprecedented financial and capital investment to the Reservation. This unique business model has replaced the “old model” of non-Tribal service providers providing limited services (at best) and having no economic incentive to ensure the Tribe’s services grow, prosper, and become profitable. This “old model” has proven to be a failure. Under NAT’s business model, however, the more successful NAT becomes, the more economically successful the Tribe becomes.

In sum, NAT’s efforts provide the Tribe with a vehicle to “pave the way” for much-needed business, economic, education, and social development on the Crow Creek Reservation.

(7) Names and addresses of applicant's affiliates, subsidiaries, and parent organizations, if any. (20:10:32:03 (7)):

NAT’s ownership structure consists of the Crow Creek Sioux Tribe (51%) (“Tribe”), located at P.O. Box 50, Fort Thompson, SD 57339-0050, Native American Telecom Enterprise, LLC (25%) (“NAT Enterprise”), located at 747 S. 4th Ave., Sioux Falls, SD 57104, and WideVoice Communications, Inc. (24%) (“WideVoice”), located at 410 South Rampart, Suite 390, Las Vegas, NV 89145.

(8) A list and specific description of the types of services the applicant seeks to offer and how the services will be provided including (20:10:24:02(6) & 20:10:32:03 (8)):

(a) Information indicating the classes of customers the applicant intends to serve.

NAT will provide service to all customer classes within the Crow Creek Sioux Tribe Reservation which is within the study area of MidState.

(b) Information indicating the extent to and time-frame by which applicant will provide service through the use of its own facilities, the purchase of unbundled network elements, or resale.

NAT will provide service through its own facilities. NAT is currently interconnected with MidState and other carriers for the exchange of telecommunications traffic.

(c) A description of all facilities that the applicant will utilize to furnish the proposed local exchange services, including any facilities of underlying carriers.

NAT is using WiMAX (Worldwide Interoperability for Microwave Access) technology operating in the 3.65 GHZ licensed spectrum providing service to residential, small business,

hospitality and public safety. The network supports high-speed broadband services, voice service, data and Internet access, and multimedia. Through the use of advanced antenna and radio technology with OFDM/ OFDMA (Orthogonal Frequency Division Multiplexing), NAT is able to deliver wireless IP (Internet Protocol) voice and data communications. WiMAX was selected because this 4G technology offers flexible, scalable and economically viable solutions that are key components to deploying in vast rural environments, such as the Crow Creek reservation.

(d) Information identifying the types of services it seeks authority to provide by reference to the general nature of the service.

NAT seeks authority to provide local exchange service to compliment its provision of advanced broadband services and other services.

(9) A service area map or narrative description indicating with particularity the geographic area proposed to be served by the applicant. (20:10:24:02(8) & 20:10:32:03 (9)):

NAT will provide service only within the boundaries of the Crow Creek Sioux Tribe Reservation. Pursuant to ARSD 20:10:32:18, NAT requests a waiver of any requirement to serve the entire study area of rural telephone companies to the extent one applies in ARSD 20:10:32:15.

(10) Information regarding the technical competence of the applicant to provide its proposed local exchange services including: (20:10:32:03 (10)):

(a) A description of the education and experience of the applicant's management personnel who will oversee the proposed local exchange services.

Attached hereto as Exhibit B is a description of the education and experience of NAT's management personnel.

(b) Information regarding policies, personnel, or arrangements made by the

applicant which demonstrates the applicant's ability to respond to customer complaints and inquiries promptly and to perform facility and equipment maintenance necessary to ensure compliance with any commission quality of service requirements.

NAT has established a toll-free number and email address for all customer inquiries and complaints, and has a physical location on the Crow Creek Sioux Tribe Reservation to handle all customer complaints and inquiries. NAT commits to respond to all inquiries and complaints within twenty-four (24) hours.

(11) Information explaining how the applicant will provide customers with access to emergency services such as 911 or enhanced 911, operator services, interexchange services, directory assistance, and telecommunications relay services. (20:10:32:03 (11)):

NAT has established connectivity with telecommunications carriers to provide its customers with access to 911, operator services, interexchange services, directory assistance, and telecommunications relay services.

(12) For the most recent 12 month period, financial statements of the applicant consisting of balance sheets, income statements, and cash flow statements. The applicant shall provide audited financial statements, if available. (20:10:24:02(9) & 20:10:32:03 (12)):

NAT has attached as Exhibit C, which is being filed under seal, the financial statements for 2010. As demonstrated by these financial statements, NAT has the financial resources necessary to initiate and provide service on the Crow Creek Sioux Tribe Reservation.

(13) Information detailing the following matters associated with interconnection to provide proposed local exchange services: (20:10:32:03 (13)):

(a) The identity of all local exchange carriers with which the applicant plans to interconnect.

NAT currently interconnects with MidState for the exchange of telecommunications traffic.

- (b) The likely timing of initiation of interconnection service and a statement as to when negotiations for interconnection started or when negotiations are likely to start.**

NAT currently interconnects with, and has an interconnection agreement with, MidState for the exchange of telecommunications traffic.

- (c) A copy of any request for interconnection made by the applicant to any local exchange carrier.**

A copy of the Interconnection Agreement with MidState is on file with the Commission.

- (14) A description of how the applicant intends to market its local exchange services, its target market, whether the applicant engages in multilevel marketing, and copies of any company brochures that will be used to assist in sale of the services. 20:10:24:02(16) & 20:10:32:03 (14)):**

NAT will target its direct marketing efforts to only those individuals and organizations within the Crow Creek Sioux Tribe Reservation.

- (15) If the applicant is seeking authority to provide local exchange service in the service area of a rural telephone company, the date by which the applicant expects to meet the service obligations imposed pursuant to § 20:10:32:15 and applicant's plans for meeting the service obligations. (20:10:32:03 (15)):**

NAT will provide service only within the boundaries of the Crow Creek Sioux Tribe Reservation which is within the study area of MidState. Pursuant to ARSD 20:10:32:18, NAT requests a waiver of any requirement to serve the entire study area of rural telephone companies to the extent one applies in ARSD 20:10:32:15.

- (16) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable. (20:10:24:02(15) & 20:10:32:03 (16)):**

As a newly formed company, NAT is not registered or certificated to provide telecommunications services in other states, nor has NAT applied for or been denied authority to provide telecommunications services in other states.

- (17) The names, addresses, telephone numbers, E-mail addresses, and facsimile numbers of the applicant's representatives to whom all inquiries must be made regarding customer complaints and other regulatory matters. (20:10:24:02(3) & 20:10:32:03 (3)):**

See Item #1, above. Jeff Holoubek is the appropriate Company representative.

The Company understands that it must notify the Commission of any changes to the contact information in subdivisions (1), (3), (4), and (17) of ARSD 20:10:32:03 and subdivisions (1), (3), (5), (8), and (10) of ARSD 20:10:24:02.

- (18) Information concerning how the applicant plans to bill and collect charges from customers who subscribe to its proposed local exchange services. (20:10:24:02(11) & 20:10:32:03 (18)):**

NAT will bill customers directly for its services on a monthly basis. NAT will provide low-income consumers with additional options for paying for services to ensure that all customers, including low-income consumers, are able to obtain and pay for services.

- (19) Information concerning the applicant's policies relating to solicitation of new customers and a description of the efforts the applicant shall use to prevent the unauthorized switching of local service customers by the applicant, its employees, or agents. (20:10:24:02(12) & 20:10:32:03 (19)):**

NAT will utilize advertising designed to market its services. Further, NAT will not solicit customers via telemarketing. NAT will require all personnel to be trained in the

Company's policies and procedures to ensure affirmative customer selection of service from the Company. NAT will require customers to complete an order form and/or a Letter of Authorization ("LOA") selecting NAT as the customer's carrier, if a consumer is switching local service providers. NAT will comply with all state and federal rules, including ARSD 20:10:34, *et. seq.*, prohibiting the slamming of customers.

(20) The number and nature of complaints filed against the applicant with any state or federal commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered. (20:10:24:02(18) & 20:10:32:03 (20)):

None.

(21) Information concerning how the applicant will make available to any person information concerning the applicant's current rates, terms, and conditions for all of its telecommunications services. 20:10:24:02(13) & 20:10:32:03 (21)):

The Company will post the current rates, terms and conditions for its local and interexchange services offered in South Dakota on its website located at NativeAmericanTelecom.com

(22) Information concerning how the applicant will notify a customer of any materially adverse change to any rate, term, or condition of any telecommunications service being provided to the customer. The notification must be made at least thirty days in advance of the change. (20:10:24:02(14) & 20:10:32:03 (22)):

NAT will notify customers by mail, email or telephone, depending upon the customer's expressed preference, as to how notification should be made, to apprise them of any changes in rates, terms and conditions of service.

(23) A written request for waiver of those rules believed to be inapplicable. (20:10:24:02(19) & 20:10:32:03 (23)):

None.

**(24) Federal tax identification number and South Dakota sales tax number.
(20:10:24:02(17) & 20:10:32:03 (24)):**

NAT's federal tax identification number is 26-3283812.

NAT's South Dakota sales tax number is 1012-1173-ST.

**(25) Other information requested by the commission needed to demonstrate that the applicant has sufficient technical, financial, and managerial capabilities to provide the local exchange services it intends to offer consistent with the requirements of this chapter and other applicable rules and laws.
(20:10:24:02(20) & 20:10:32:03 (25)):**

NAT is a South Dakota-based company established to serve the needs of rural consumers within the state.

Dated this 30th day of September, 2011.

Respectfully submitted,

Scott R. Swier
Legal Counsel - NAT

CERTIFICATE OF SERVICE

I, Scott R. Swier, hereby certify that, on this 6th day of October, 2011, I mailed by *United States mail, first class prepaid postage*, a true and correct copy of the Application for Certificate of Authority to the following:

Ms. Patty Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, South Dakota 57501

Mark Benton
General Manager
Midstate Communications, Inc.
P.O. Box 48
Kimball, South Dakota 57355
(serves part of the Crow Creek reservation)

Scott R. Swier