

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

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IN RE:

Docket No. TC14-084

SPRINT COMMUNICATIONS COMPANY L.P.,

Complainant,

v.

NATIVE AMERICAN TELECOM – PINE RIDGE,  
LLC,

Respondent.

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**AFFIDAVIT OF GENE DeJORDY IN SUPPORT OF MOTION TO DISMISS**

STATE OF CONNECTICUT)

) ss  
COUNTY OF FAIRFIELD )

I, Gene DeJordy, on oath depose and state as follows:

1. I am submitting this affidavit in support of the motion of Native American Telecom – Pine Ridge, LLC (“NAT PR”) to dismiss the Complaint of Complainant Sprint Communications Company L.P. (“Sprint”).

2. I am an attorney and business owner with over 30 years’ experience in the telecommunications and technology industries. I am the owner and principal attorney for Dakelyn Consulting, which provides legal, regulatory, and business development consulting for companies, organizations, and tribal governments. My clients include, among others, the Crow Creek Sioux Tribe, the Oglala Sioux Tribe Utilities Commission, and several telecommunications companies in the United States. I am the founder of Native American Telecom Enterprise, LLC, which owns a minority interest in NAT PR. I am the founder of NAT PR, a member of its board, and actively participate in its management.

3. NAT PR is majority owned by the Oglala Sioux Tribe. The sovereign Nation of the Oglala Sioux Tribe is located on the Pine Ridge Indian Reservation in South Dakota (“Pine Ridge”). Today, Pine Ridge is the eighth-largest reservation in the United States, greater in area than Delaware and Rhode Island combined. Depending upon how you define reservation boundaries, the Pine Ridge reservation encompasses, at a minimum, the entirety of Shannon County, the southern half of Jackson County, and the northwest portion of Bennett County. Shannon County is the poorest county in the nation, and Jackson and Bennett Counties are among the poorest.

4. I conceived of NAT PR as a local phone company committed to serving rural, underserved populations like the Sioux Tribes of South Dakota. It was my belief that a local company focused on the unique needs of tribal members in rural areas could succeed in providing affordable phone and broadband service even when large companies like Sprint and AT&T have abandoned them.

5. Originally, the concept was to establish a network of telephone companies throughout South Dakota and North Dakota, each serving their own reservation. I began with organizing two tribal telephone companies, one for the Crow Creek Sioux Tribe and another for the Oglala Sioux Tribe. I reached out to potential investors and technology providers before establishing the ownership structure of the businesses. It was with this plan that I was able to secure the support of NAT PR’s first anchor customer, Free Conferencing Corporation. Free Conferencing Corporation committed to directing a small portion of its traffic to the reservation. The traffic commitment would be instrumental for the initial success of the telecommunications company.

6. In June 2009, the Oglala Sioux Tribe Utility Commission granted NAT PR

approval to provide telecommunications services on Pine Ridge, including local telephone and broadband service. A copy of the certificate of authority granted by the Tribal Utility commission is attached hereto as "Exhibit A." In 2010, NAT PR filed its first interstate tariff with the Federal Communications Commission.

7. NAT PR constructed physical offices, telecommunications equipment, and telecommunications towers on Pine Ridge. It is currently using WiMAX (Worldwide Interoperability for Microwave Access) technology operating in the 3.65 GHZ spectrum providing service for residential, small business, hospitality, and public safety. Its infrastructure is capable of providing 4G high-speed broadband services, voice service, data and Internet access, and multimedia. Through the use of advanced antenna and radio technology with OFDMA (Orthogonal Frequency Division Multiplexing), NAT PR's network is designed to deliver wireless IP (Internet Protocol) voice and data communications.

8. NAT has established interconnection with the incumbent local exchange carriers serving Pine Ridge (Golden West Telecommunications Cooperative). NAT also has connectivity with long distance carriers and other service providers to enable the exchange of telecommunications and information services throughout the world.

9. NAT has built out its telecommunications network to serve tribal government offices, residential tribal members, and various locations on Pine Ridge. It also operates an Internet Library and a Technology Center on Pine Ridge that enable residents to obtain free access to Internet service and use more than a dozen personal computers and Apple computers. NAT PR also provides telecommunications and information services to end user customers, such as businesses, residences, and tribal offices, located on the reservation, including, but not limited to, Free Conferencing Corporation and the Oglala Sioux Tribe Office of Economic Development.

10. NAT PR is continuing to extend its network and services to more Tribal members who are residential customers on the reservation. It does not, however, currently provides any telecommunications service that originates on the Pine Ridge Reservation and terminates in South Dakota off the reservation (hereafter referred to as "Intrastate Off-Reservation Traffic").

11. During the period from September 2010 through May 2012, NAT PR was handling Intrastate Off-Reservation Traffic. It was our belief that as an enterprise operating under the authority of the Tribal Utility Commission and pursuant to a federal interstate tariff, NAT PR's Off-Reservation Traffic was interstate traffic, and thus it did not require a certificate of authority from the South Dakota Public Utility Commission ("PUC"). However, in proceedings involving Native American Telecom, LLC ("NAT CC"), a local exchange carrier that is majority owned by the Crow Creek Sioux Tribe, the PUC expressed the view that PUC CLEC authority was required for Intrastate Off-Reservation Traffic. Out of respect for the PUC, both NAT PR and NAT CC stopped originating Intrastate Off-Reservation Traffic.

12. No bills were to be sent to Sprint for intrastate access charges after May 10, 2010. As of that date, Sprint was billed a total of \$2014.36 for intrastate switched access. For the period between May 11, 2010 and July 2014, Sprint was not billed anything for intrastate switched access.

13. On June 13, 2014, in connection with a CLEC application of NAT CC, the PUC issued a Final Decision And Order; Notice Of Entry Of Order, which granted NAT CC a certificate of authority to provide local and interexchange telecommunications services in the Fort Thompson exchange. *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.*, Docket No. TC11-087. Shortly thereafter a certificate of

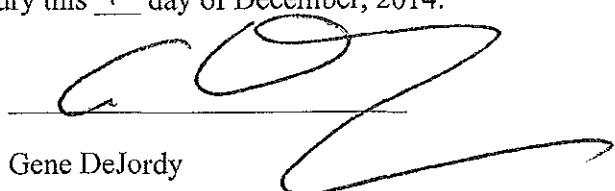
authority was issued by the PUC. With the issuance of that certificate, NAT CC began providing service for Intrastate Off-Reservation Traffic.

14. NAT CC informed its CABS billing agent that it had restarted service for Intrastate Off-Reservation Traffic, and the CABS agents sent the first bill for such service to Sprint in August 2014. The CABS agent, however, mistakenly also began to bill Sprint for Intrastate Off-Reservation Traffic at NAT PR, and bills were sent in August 2014, September 2014, and October 2014, before NAT PR was informed of the mistake. The bills for those months were, respectively, \$37.61, \$46.73, and \$61.11. Sprint was thus mistakenly billed a total of \$145.45. As soon as the mistake was discovered, Sprint was credited for the wrongly billed amount.

15. NAT PR currently has no operations outside the Pine Ridge reservation and serves no customers off the reservation. It also has no intention of providing any time in the immediate future Intrastate Off-Reservation Service. If it does, it plans to seek CLEC authority from the PUC (unless it is determined such authority is not required).

16. Free Conferencing Corporation has consented to the jurisdiction of the Tribe. A copy of a letter from the President of Free Conferencing Corporation confirming that the company consents to the jurisdiction of the Tribe is attached hereto as "Exhibit B."

Signed under the pains and penalties of perjury this 4<sup>th</sup> day of December, 2014.

  
Gene DeJordy