

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

<b>IN THE MATTER OF THE COMPLAINT )</b>	<b>ORDER SETTING</b>
<b>FILED BY SPRINT COMMUNICATIONS )</b>	<b>PROCEDURAL SCHEDULE</b>
<b>COMPANY, LP, AGAINST NATIVE )</b>	
<b>AMERICAN TELECOM, LLC REGARDING )</b>	<b>TC10-026</b>
<b>TELECOMMUNICATIONS SERVICES )</b>	

On May 4, 2010, the Public Utilities Commission (Commission) received a complaint from Sprint Communications Company, LP (Sprint) against Native American Telecom, LLC (NAT) in which Sprint seeks: 1) a determination that the Commission has the sole authority to regulate Sprint's intrastate interexchange services and that NAT lacks authority to bill Sprint for switched access services without a Certificate of Authority and valid tariff on file with the Commission; 2) a declaration that because the Commission has the sole authority over Sprint's intrastate interexchange services, the Crow Creek Sioux Tribe Utility Authority is without jurisdiction over Sprint; and 3) a determination that NAT must repay Sprint the amounts it inadvertently paid NAT for unauthorized and illegal switched access charges. On May 5, 2010, Sprint filed an Amended Complaint.

Petitions to intervene were filed by the South Dakota Telecommunications Association (SDTA), South Dakota Network, LLC (SDN), Midstate Communications (Midstate), AT&T Communications of the Midwest, Inc., (AT&T), and the Crow Creek Sioux Tribe Utility Authority (CCSTUA). On June 1, 2010, NAT filed a Motion to Dismiss and a Motion to Establish Briefing Schedule for Respondent's Motion to Dismiss. At its June 18, 2010, meeting, the Commission granted Petitions to Intervene to all those who filed to intervene. On June 29, 2010, NAT filed a Motion to Stay this docket.

At its August 10, 2010, meeting, the Commission required that the Motion to Dismiss and Motion to Stay be briefed during the same briefing schedule. The parties subsequently filed briefs on the Motion to Dismiss and Motion to Stay. On October 12, 2010, NAT filed a Motion to Extend Filing Date of NAT's Reply Brief. On October, 13, 2010, Sprint filed a Stipulation to NAT's Request for Additional Time to File Reply Briefs in Support of its Motions to Stay and to Dismiss. On December 13, 2010, Sprint filed a Motion for Leave to File a Supplemental Reply to NAT's Reply Brief, or to Strike. On December 13, 2010, a Supplemental Reply Brief of Sprint was filed. At its January 18, 2011, meeting, the Commission voted to deny Sprint's Motion to Strike and granted Sprint's Motion to File a Supplemental Reply to NAT's Reply Brief. On March 15, 2011, NAT filed a Motion for Protective Order.

At its April 5, 2011, meeting, the Commission voted to deny NAT's Motion to Stay. NAT then requested that its Motion to Dismiss be deferred until after discovery at which time the Commission could have more information on which to base its decision. The Commission voted to grant NAT's request to defer the Motion to Dismiss.<sup>1</sup>

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<sup>1</sup> On May 17, 2011, the Commission's Order Denying Motion to Stay was appealed to circuit court by NAT. By order dated August 23, 2011, the circuit court affirmed the Commission's Order Denying Stay.

On October 5, 2011, Sprint filed a Motion to Compel. On December 27, 2011, Sprint filed a Motion Requesting a Protective Order Requiring the Parties and Intervenors to Comply with a Confidentiality Agreement. At its January 31, 2012, meeting, the Commission granted Sprint's Motion Requesting a Protective Order Requiring the Parties and Intervenors to Comply with a Confidentiality Agreement. On April 11, 2012, Sprint filed a Motion to Compel NAT to Honor its Agreement to Answer Discovery. On April 23, 2012, NAT filed a Motion to Dismiss Based on Mootness. On December 11, 2012, Sprint filed a Motion for Summary Judgment.

The Commission finds that it has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-13, and 49-31.

With respect to Sprint's Motion for Summary Judgment, the parties have agreed to the following procedural schedule:

- January 11, 2013 NAT's response to Sprint's Motion for Summary Judgment is due
- February 1, 2013 Staff and Intervenors' response to both Sprint's Motion for Summary Judgment and NAT's response is due (optional)
- February 15, 2013 Sprint's response to Staff, Intervenors, and NAT is due
- February 26, 2013 Commission will hear this matter

It is therefore

ORDERED, that the parties shall follow the procedural schedule as set forth above.

Dated at Pierre, South Dakota, this 2nd day of January, 2013.

<b>CERTIFICATE OF SERVICE</b>
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.
By: <u>Joy Bray</u>
Date: <u>1-2-13</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Chris Nelson  
CHRIS NELSON, Chairman

Kristie Fiegen  
KRISTIE FIEGEN, Commissioner

Gary Hanson  
GARY HANSON, Commissioner