

1 THE PUBLIC UTILITIES COMMISSION
2 OF THE STATE OF SOUTH DAKOTA

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4 IN THE MATTER OF THE COMPLAINT FILED BY
5 SPRINT COMMUNICATIONS COMPANY, LP AGAINST TC10-026
6 NATIVE AMERICAN TELECOM, LLC REGARDING
7 TELECOMMUNICATIONS SERVICES

8 =====

9 Transcript of Proceedings
10 April 5, 2011

11 =====

12 BEFORE THE PUBLIC UTILITIES COMMISSION,
13 STEVE KOLBECK, CHAIRMAN
14 GARY HANSON, VICE CHAIRMAN
15 CHRIS NELSON, COMMISSIONER

16 COMMISSION STAFF
17 Rolayne Ailts Wiest
18 Karen Cremer
19 Greg Rislov
20 Dave Jacobson
21 Bob Knadle
22 Deb Gregg
23 Demaris Axthelm

24 APPEARANCES

25 Tom Tobin, Sprint Communications Company
Scott Knudson, Sprint Communications Company
Scott Swier, Native American Telecom (by telephone)
Darla Pollman Rogers, Interveners

Reported By Cheri McComsey Wittler, RPR, CRR

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18 Dismiss?

19 Native American Telephone, why don't you
20 continue on.

21 MR. SWIER: Thank you. Mr. Chair, members of
22 the Commission, I think we're just going to rely on our
23 Brief here. I think that the Staff Brief is correct in
24 that it would be premature at this point based on the
25 factual record to go any further with this Motion to

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1 Dismiss.

2 I think that when you look at the record, this
3 Motion should be deferred and a decision should not be
4 made. Now that we are going to be apparently in front of
5 this Commission, that I think the Motion to Dismiss as
6 the Staff Brief said is premature and that we should move
7 forward with discovery, and when discovery is completed
8 NAT can move forward with its Motion to Dismiss and this
9 Commission can have more information on which to base its
10 decision.

11 COMMISSIONER HANSON: Mr. Chairman, may I make a
12 Motion?

13 CHAIRMAN KOLBECK: Yes.

14 COMMISSIONER HANSON: Mr. Chairman, in lieu of
15 the fact that NAT has stated that they would like to
16 defer the Motion to Dismiss, I would simply ask -- I'm
17 assuming that they have the right to do that and take it
18 off the table.

19 would it be appropriate to simply ask the other
20 parties if they're opposed to that, if they want to argue

21 that and just have the Motion?

22 MR. KNUDSON: For Sprint I have one question,
23 which is really directed at Mr. Swier, which is is the
24 issue whether the Commission has jurisdiction of the
25 question of whether there is any intrastate traffic?

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1 Because, otherwise, I think his challenge to the
2 Commission's jurisdiction, and if you go to his Brief, is
3 it says, "The Motion to Dismiss must be granted because
4 the Commission does not have jurisdiction" -- missing
5 word here "over NAT's activities on the reservation."
6 That's on page 42 of its Brief.

7 But actually if, in fact, there is intrastate
8 traffic, which would be calls from one South Dakota
9 resident outside the reservation to another person,
10 either nonmember of the reservation or someone else
11 that's not on the reservation but because of the
12 conferencing bridge equipment somehow those calls get
13 connected to each other on the reservation, that's
14 activity that I think is squarely within the Commission's
15 jurisdiction to regulate. And I don't think there's any
16 question that --

17 COMMISSIONER HANSON: Thank you, Mr. Knudson.
18 The reason I ask is because generally we give deference
19 to someone who's made a Motion if they wish to withdraw
20 it or if they wish to defer it.

21 So I was just asking the Chair if that's what
22 he wishes to do, rather than going through a hour or two
23 replete of arguments just to give deference to the

Knudson, Scott

From: scott@swierlaw.com
Sent: Tuesday, April 19, 2011 4:29 PM
To: Knudson, Scott
Subject: SDPUC TC-10-026

Scott:

Thank you for your recent correspondence in this matter regarding the status of discovery.

Please note that Native American Telecom, LLC will be appealing the South Dakota Public Utilities Commission's decision to deny NAT's Motion to Stay to the Circuit Court. As such, I believe that the SDPUC would not have jurisdiction to rule on any matters (including discovery disputes) while an appeal is pending in the Circuit Court.

If you have any questions, please feel free to contact our office.

Thank you.

Scott

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