

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN RE:

Docket No. TC10-026

SPRINT COMMUNICATIONS
COMPANY L.P.,

Complainant,

v.

NATIVE AMERICAN TELECOM,
LLC,

Respondent.

**SPRINT COMMUNICATIONS
COMPANY L.P.'S MOTION FOR
SUMMARY JUDGMENT**

COMES NOW, Sprint Communications Company L.P. ("Sprint"), by and through counsel of record, Philip R. Schenkenberg and Scott G. Knudson, Briggs and Morgan, P.A., 80 South 8th Street, 2200 IDS Center, Minneapolis, Minnesota, and pursuant to SDCL § 15-6-56(c) and ARSD 20:10:01:01.02, hereby files its Motion for Summary Judgment against Native American Telecom, LLC ("NAT").

Sprint's motion is based on the accompanying memorandum of law, Sprint's statement of undisputed facts and the affidavits of Amy S. Clouser and Scott G. Knudson and exhibits thereto, as well as the record before the Commission in Docket TC-10-26.

Very simply, SDCL § 49-31-3 requires NAT to have a certificate of authority from the Commission before offering interexchange telecommunications service. NAT has no such certification, but has been

operating as a CLEC within the state since September 2009. Sprint is entitled to a declaration from the Commission that:

- (1) NAT cannot provide telecommunications anywhere within the State of South Dakota without a certificate of authority from the Commission;
- (2) NAT cannot invoice for intrastate telecommunications services until it has a lawful tariff on file with the Commission;
- (3) NAT's invoices to Sprint for intrastate services that NAT has issued without a certificate of authority and lawful tariff on file with the Commission are void; and
- (4) The Commission has sole authority to regulate Sprint's interexchange services within the State of South Dakota, and conversely, the Crow Creek Sioux Tribal Utility Authority cannot regulate Sprint's activities in this State.

Dated this 11th day of December, 2012.

BRIGGS AND MORGAN, P.A.

s/Scott G. Knudson

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