

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

**IN THE MATTER OF THE )  
APPLICATION OF NATIVE )  
AMERICAN TELECOM, LLC FOR A ) TC11-087  
CERTIFICATE OF AUTHORITY TO )  
PROVIDE LOCAL EXCHANGE )  
SERVICE WITHIN THE STUDY AREA )  
OF MIDSTATE COMMUNICATIONS, )  
INC. )**

**NATIVE AMERICAN TELECOM, LLC’S REPLY AND OPPOSITION  
TO THE SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION’S  
PETITION TO INTERVENE**

COMES NOW Native American Telecom, LLC (“NAT”) and responds to the South Dakota Telecommunications Association’s (“SDTA”) Petition to Intervene as follows:

1. SDTA states that it represents the interests of numerous cooperative, independent and municipal telephone companies operating throughout the state of South Dakota. It is apparently in this representative capacity that SDTA seeks to intervene in this proceeding.

2. NAT objects to SDTA’s intervention in this docket for very fundamental reasons. SDTA simply does not meet the threshold requirements of the Commission’s rules to intervene and pursue party status in this docket. ARSD 20:10:01:15.05 provides in relevant part:

A petition to intervene shall be granted by the commission if the petitioner shows that the petitioner is specifically deemed by statute to be interested in the matter involved, that the petitioner is specifically declared by statute to be an interested party to the proceeding, or that by the outcome of the proceeding the petitioner will be bound and affected either favorably or adversely with respect to an interest peculiar to the petitioner as distinguished from an interest common to the public or to the taxpayers in general.

SDTA is a trade association and seeks to intervene in its representative capacity. It is not (1) deemed by statute to be interested in the matter involved; (2) it is not specifically declared by

statute to be an interested party to the proceeding; and (3) it will not be bound or affected either favorably or adversely with respect to an interest peculiar to the petitioner. SDTA acts only through the interests of its members. The incumbent carrier in this matter, Midstate Communications, Inc. ("Midstate"), is one of SDTA's members. It is *Midstate* that will be either favorably or adversely affected in this docket.

3. As stated above, Midstate is the real party in interest to oppose NAT's application. Midstate is the incumbent carrier. Midstate is represented by competent counsel and no reason exists for the SDTA (or any other non-incumbent carrier) to take a "second bite of the apple" and unduly lengthen the process in this proceeding. As a trade association, SDTA is fully able to provide services to Midstate and assist its member through normal channels. SDTA has no need to be a party in this proceeding.

WHEREFORE, NAT respectfully requests that the Commission deny SDTA's Petition to Intervene.

Dated this 14<sup>th</sup> day of November, 2011.

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on *November 14<sup>th</sup>, 2011*, *NATIVE AMERICAN TELECOM, LLC'S REPLY AND OPPOSITION TO THE SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION'S PETITION TO INTERVENE* was served via *electronic mail* upon the following:

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