

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

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

**NATIVE AMERICAN TELECOM, LLC'S MEMORANDUM IN RESPONSE
TO SPRINT'S SECOND MOTION TO COMPEL DISCOVERY**

INTRODUCTION

Native American Telecom, LLC ("NAT"), through its counsel, submits this memorandum in response to Sprint's motion to compel discovery.

FACTS

On April 4, 2013, Sprint filed its "Second Motion to Compel and/or Enforce Prior Commission Order" in this matter.

First, Sprint seeks additional information regarding its Interrogatory No. 7 which provides:

INTERROGATORY NO. 7: Identify the location of the cell towers and WiMax equipment you claim allows you to provide service throughout the reservation. Provide coverage maps that demonstrate the signals being generated can reach throughout the reservation.

NAT has provided Sprint with the location of this equipment (253 Ree Circle Fort Thompson, South Dakota 57339). NAT has also informed

Sprint that it does not have in its possession any “coverage maps” as requested. In other words, NAT has provided all information that it has in its possession regarding this Interrogatory.

Second, Sprint seeks additional information regarding its Interrogatory No. 9 which provides:

INTERROGATORY NO. 9: With respect to the voice services you have been providing, identify the taxes, assessments and surcharges that apply, including USF surcharges, TRS, and 911 assessments. Has NAT been collecting and/or remitting such amounts? If so, explain how amounts have been calculated. If not, why not? In doing so you should explain the calculations that resulted in NAT’s remittance of \$10,665 to USAC for the 2012 calendar year.

NAT has also informed Sprint that these issues are currently being updated and undergoing a professional audit, which said audit should be available in the immediate future. At this time, NAT does not have these final audited documents to provide to the parties. In other words, NAT has also provided all information that it has in its possession regarding this Interrogatory.

Finally, the Commission should note that Sprint has once again refused to provide NAT with responses to NAT’s recent discovery requests. Sprint’s unilateral refusal to provide NAT with even the most basic discovery responses is based upon Sprint’s assertion that because NAT may submit a revised application, it is allowed to ignore NAT’s

discovery requests. (See Exhibit 1). Sprint's position has no justification in either law or in fact.

CONCLUSION

For these reasons, there is no basis to grant Sprint's motion to compel Interrogatory No. 7 and Interrogatory No. 9. As such, the Commission should deny Sprint's motion to compel.

Dated this 15th day of May, 2013.

SWIER LAW FIRM, PROF. LLC

/s/ Scott R. Swier

Scott R. Swier

202 N. Main Street

P.O. Box 256

Avon, South Dakota 57315

Telephone: (605) 286-3218

Facsimile: (605) 286-3219

scott@swierlaw.com

www.SwierLaw.com

Attorneys for NAT

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of *NATIVE AMERICAN TELECOM, LLC'S MEMORANDUM IN RESPONSE TO SPRINT'S SECOND MOTION TO COMPEL DISCOVERY* was delivered *via electronic mail* on this 15th day of May, 2013, to the following parties:

Service List (SDPUC TC 11-087)

/s/ Scott R. Swier
Scott R. Swier