

EXHIBIT 2

Oglala Sioux Tribe Utility Commission
A Chartered Governmental Subdivision of the Oglala Sioux Tribe

Matter: Inquiry into the rates, terms and conditions of service being provided by utilities on the Pine Ridge reservation

Case No: U-1-2014

Date: September 9, 2014

Final Order

The Commission initiated this case at its January 7, 2014 Agenda Meeting, at which time Commission Staff was directed to contact all electric, telecommunications, water, gas/propane, and cable/satellite television utilities operating and providing service on the Pine Ridge reservation ("Utilities") and issue Requests for Information ("RFIs") to develop a factual record regarding the rates, terms and conditions of utility services on the Pine Ridge reservation. The Utilities provided their responses to the RFIs and Staff prepared an Initial Report on May 5, 2014. Thereafter, in Order #2 on July 16, 2014, the Commission confirmed that its rules and orders apply to all Utility providers on the Pine Ridge reservation, including those without facilities on the reservation.

In this Final Order, the Commission addresses the following issues of immediate concern:

1. a registration requirement for all Utilities;
2. an annual reporting requirement and the payment of a Utility Fee;
3. a process for handling consumer complaints;
4. guidance for imposing taxes, fees, and surcharges on consumers; and
5. initiation and termination of service requirements.

Comments were received by AT&T Mobility, LLC ("AT&T Mobility"), South Dakota Network, LLC ("SDN"), Golden West Telecommunications Cooperative, Inc. ("Golden West"), and Nebraska Public Power District ("NPPD"), and others. These Comments were taken into consideration in the adoption of this Final Order.

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Jurisdiction

The Commission has jurisdiction over Utilities operating on the Pine Ridge reservation. The Oglala Sioux Tribe “formally delegates exclusive and essential government functions and authority for the appropriate and independent regulation of utilities on the Pine Ridge Indian reservation” to the Tribal Utility Commission. Section 3-102 of the Oglala Sioux Tribe Utilities Code. It is the purpose and intent of the Tribal Council that “the operations of the Commission be conducted independently and on behalf of the Tribe for the sole benefit and interests of the Tribe, its members, and the residents of the Reservation.” Section 3-102(3) of the Oglala Sioux Tribe Utilities Code. The Tribal Utility Commission therefore has jurisdiction over the regulation of utilities operating on the Pine Ridge reservation. No local Utility provider has challenged the Commission’s jurisdiction to adopt requirements governing Utilities operating on the Pine Ridge reservation, except AT&T Mobility cites to federal law and orders governing mobile wireless carriers.¹ CenturyLink, an interexchange carrier, states that it “does not consent to or submit to the jurisdiction or authority of the Tribal Utility Council to regulate its services.”² The Commission concludes that it has jurisdiction and authority over all Utility providers on the Pine Ridge reservation, regardless of whether a Utility provider uses its own facilities or those of another entity to provide service to residents and individuals located on the Pine Ridge reservation.

New Utility Requirements

Registration Requirement

All Utility providers on the Pine Ridge reservation shall register with the Commission and provide the following information:

1. Name of Utility: legal name, doing as business name(s);

¹ AT&T Mobility Comments at p. 2.

² CenturyLink, Jason Topp letter to Beau White, July 31, 2014. CenturyLink’s reference to the “Tribal Utility Council” appears to be in error and is intended to refer to the Tribe Utility Commission.

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2. Address, email, and phone numbers of Utility and Points of Contact (“POCs”) for Utility; POCs should be provided for normal business hours and for outside of business hours;
3. List of products and services provided;
4. Geographic limitations to products and services provided; and
5. Copy of rates, terms and conditions of products and services. To the extent detailed information on the rates, terms and conditions of service is located on a web site, a Utility may provide specific reference to this web site, provided the information is readily available.

No form for this registration requirement is adopted at this time. Utilities may submit this information in the most appropriate form. All existing Utilities will have until October 1, 2014 to submit this information, even though some of this information may have already been submitted to the Commission in response to RFIs. Any new Utility shall meet this Registration requirement at least 30 days prior to offering service on the Pine Ridge reservation. Registration is not an application requiring approval. It is a registration notification requirement to provide the Commission with information about each Utility doing business on the Pine Ridge reservation. All Utilities have an on-going obligation to ensure that the information provided to the Commission as part of this Registration requirement is accurate and up to date.

Annual Report and Utility Fee

All Utilities shall submit an Annual Report by February 1 of each year for the preceding calendar year identifying the following:

1. Number of customers on the Pine Ridge reservation;
2. Revenues billed to consumers residing on the Pine Ridge reservation; Utilities may classify this revenue into different categories, but revenues reported shall include all revenues billed to consumers on the Pine Ridge reservation; and
3. Description of capital infrastructure on the Pine Ridge reservation, improvements completed in the prior year and planned for the current year.

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An annual Utility fee shall be due at the time of filing the Annual Report. The fee shall be based upon the number of customers on the Pine Ridge reservation as of December 31 of the prior year multiplied by \$1.00. The fee will be used to cover Commission related expenses related to the provision of Utility services on the Pine Ridge reservation. The Commission does not believe the Utility Fee will significantly impact Utilities and their provision of service on the Pine Ridge reservation. The Commission encourages Utilities to not pass on this cost of doing business to consumers.

Consumer Complaints

Consumers of utility services on the Pine Ridge reservation do not always have access to customer service personnel, with some Utilities having retail locations on the reservation and other Utilities with no retail locations on the reservation. Even those Utilities with retail locations on the reservation do not necessarily have customer service personnel that can resolve all consumer concerns. The Utility Commission is informed of some consumer complaints, but not all consumer complaints. It appears that some consumer complaints are expeditiously resolved, but other consumer complaints either are not resolved or are not resolved to the satisfaction of consumers. All of these facts lead to the conclusion that a formal customer complaint process needs to be established for utility services on the reservation. Specifically, all Utilities are required to implement the following requirements for addressing customer complaints:

1. All consumers receiving monthly bills, statements, or notices on the Pine Ridge reservation shall be informed at least twice per calendar year that customer complaints regarding utility services can be directed to: Consumer Complaint Division, Oglala Sioux Tribe Utility Commission, P.O. Box 669, Pine Ridge, South Dakota 57770, 605-867-5771; all other consumers not receiving monthly bills, statements or notices, shall be informed at the point of sale and at other customer point of sale contact points that complaints

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regarding utility services can be directed to the Consumer Complaint Division at the address and phone number above.

2. On February 1 of each year, all Utilities shall provide a written report to the Utility Commission identifying:
 - a. the number of complaints received from consumers on the Pine Ridge reservation for the prior calendar year;
 - b. the type of complaints received from consumers in the following categories: (i) billing – rate plans, (ii) billing – taxes, fees, and surcharges, (iii) billing – other, (iv) installation, (v) termination, (vi) service availability – coverage and outages, (vii) quality of service, and (viii) other; and
 - c. the number of complaints resolved to the satisfaction of the customer and the number of complaints unresolved.

Taxes and Fees

The Commission Staff is continuing its review of the appropriateness of certain taxes and fees on tribal members and residents of the Pine Ridge reservation. In the meantime, the Commission has reviewed several customer bills for utility services on the Pine Ridge reservation and, based upon this review, concludes that greater uniformity is required in how taxes and fees are identified on customer bills. Staff's Initial Report identifies significant differences in how Utilities classify taxes and fees on customer bills and the amount of taxes and fees. Some of these differences may be explained by Utility type, but other differences appear to be based upon individual Utility practices. All of this leads to consumer confusion and an inability to understand the taxes and fees to determine appropriateness. Staff convened a Working Group comprised of Utilities and Staff in an attempt to address Commission concerns, but no agreement was reached. The Commission concludes that greater uniformity is required in the classification and assessment of taxes and fees imposed on consumers on the Pine Ridge reservation. The Commission will not at this time establish specific rules governing the classification

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and assessment of taxes and fees imposed on consumers, but provides the following guidance to Utilities on how taxes and fees should be identified on customer bills:

1. Taxes -- all taxes directly imposed on consumers by federal, state, local and tribal authorities:
 - should be identified on customer bills under the general heading "Taxes;"
 - should be identified first by the name of the jurisdiction: "Federal," "State," "[County or Town Name]," or "Oglala Sioux Tribe" and then the specific tax type, such as "excise tax," "tribal tax," etc.; and
 - for example: Tax: Federal - Excise Tax or Tax: Oglala Sioux Tribe - Tribal Tax.
2. Surcharges and Fees -- all surcharges and fees imposed on consumers by Utilities should be separately identified; these may include taxes and fees imposed on the Utility, who then imposes the cost on consumers:
 - the general heading should be "Surcharges and Fees;"
 - the specific surcharge and fee should be identified, such as "regulatory," "gross receipts," etc.; and
 - for example: Surcharges and Fees: Regulatory.
3. The amount of the tax, surcharge and fee should be clearly identified; if it is a set amount, like \$3 per month, then it is self-explanatory; if, however, it is a percentage of the customer bill, then the percentage should be identified, such as 4%.

Initiation and Termination of Service

The Commission reviewed the terms and conditions for the initiation and termination of service by Utilities on the Pine Ridge reservation and found significant differences in these terms and conditions. In a competitive marketplace, consumers are able to choose services based, in part, on the terms and conditions of service, but utility service on the Pine Ridge reservation is not a competitive market. Consumers generally do not have a choice in their utility service, and if they do have a choice -- for example, mobile wireless service -- the choice is very limited, unlike most areas of the country where four or more service providers compete for consumers. The Commission will not, at this time, establish specific initiation and termination of service requirements, but will require the following:

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1. Prior to a consumer obtaining and incurring any obligation for utility service, the Utility shall provide specific notice of the terms and conditions of service; the Commission will not at this time prescribe the form of the notice, but, to the extent a consumer claims that it was not informed of the terms and conditions of service, then the Utility will need to establish otherwise.
2. Utilities shall inform customers prior to termination of service that they may file a complaint with the Commission at the following address: Consumer Complaint Division, Oglala Sioux Tribe Utility Commission, P.O. Box 669, Pine Ridge, South Dakota 57770, 605-867-5771.
3. Utilities shall report quarterly within 30 days of the end of each quarter (Jan – Mar, Apr – Jun, Jul – Sep, and Oct – Dec) the number of service terminations, the reason for termination of service, the terms and conditions for termination, and the requirements for reconnection.

The Commission will not, at this time, establish specific disconnection of service requirements, but will monitor the quarterly reports to determine if specific action is required by the Commission to protect consumer rights.

On-Going Review

The Commission will keep this case open to allow Staff to issue additional RFIs to further develop the record in this case, which will allow the Commission to address other utility issues brought to its attention.

Confidentiality

Several Utility providers expressed concern about submitting confidential information to the Commission without a Protective Order or Non-Disclosure Agreement. The Commission will use the previously established Non-Disclosure Agreements entered into between the Utility provider and the Tribe Utility Commission to govern the submission of all confidential information to the Commission in this proceeding and other proceedings before the Commission. Utilities shall coordinate with Staff to establish Non-Disclosure Agreements to govern the submission of confidential information.

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Waiver

To the extent any Utility is unable to comply with the specific requirements adopted herein, it may request a waiver of the requirement, but such waivers will not be granted absent a specific showing justifying the relief requested.

Registrations and Filings

Please submit Registrations and Filings through the Commission's email filing system: Filings@ostuc.net or through the mail at the address below.

TRIBAL UTILITY COMMISSION

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Ivan Bettleyoun - Vice Chair
David Mills, Commissioner
Arlene Catches The Enemy - Treasurer

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Certificate of Service

A copy of this Order has been served by email on September 10, 2014 on the following individuals:

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