

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

IN THE MATTER OF THE COMPLAINT OF
SOUTH DAKOTA NETWORK, LLC,
AGAINST SPRINT COMMUNICATIONS
COMPANY LP

DOCKET NUMBER TC 09-098

IN THE MATTER OF THE THIRD PARTY
COMPLAINT OF SPRINT
COMMUNICATIONS COMPANY LP
AGAINST SPLITROCK PROPERTIES, INC.,
NORTHERN VALLEY
COMMUNICATIONS, INC., SANCOM, INC.,
AND CAPITAL TELEPHONE COMPANY

PUBLIC VERSION

**DECLARATION OF TANYA BERNDT
IN SUPPORT OF NORTHERN VALLEY
COMMUNICATIONS, LLC'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

I, Tanya Berndt, being over the age of 18, declare as follows:

1. I am, and at all times relevant during the matters at issue in this litigation was, the Chief Financial Officer ("CFO") of Plaintiff Northern Valley Communications, L.L.C. ("Northern Valley").

2. As CFO, I am in charge of, and familiar with, Northern Valley's billing program and the invoices that it submits to both long-distance carriers such as Sprint Communications Company LP ("Sprint") as well as its end user customers, including the Conferencing Call Providers.

3. Northern Valley's billing system allows it to analyze and separate the Switched Access Service charges to Sprint associated with calls destined to Conference Call Providers as opposed to all of Northern Valley's other, "traditional" customers, because each such customer has a phone number assigned to it.

4. Sprint utilized, and continues to utilize, the originating and terminating access services provided by Northern Valley; without Northern Valley's services, Sprint's customers' call could not be completed.

5. Northern Valley has billed Defendant Sprint for FGD intrastate Switched Access Service charges in accordance with its intrastate tariff.

6. Sprint's ability to send calls to and receive calls from the residences and businesses connected to Northern Valley's network is a valuable service. Because of Northern Valley's service, Sprint is able to bill its long-distance customers for long distance services, and receive payment from those customers.

7. From September 2007 – December 2010, Sprint refused to pay Northern Valley's invoices with regard to any traffic, including, but not limited to, traffic terminating to Conference Call Providers. Sprint's withholdings during this time period exceed the amount of access charges it had previously paid for traffic terminating to Conference Call Providers.

8. Beginning in December 2010, Sprint began to pay Northern Valley for interstate and intrastate access charges for traffic terminating to traditional residential and business end users. Sprint also made a payment representing amounts that it acknowledged as being over withheld from Northern Valley, based on its own calculations of the disputed charges. Sprint, however, continues to have an outstanding balance for traditional residential and business end user traffic that it is withholding as an "offset" for amounts it claims to have improperly paid on traffic terminating to Conference Call Providers before it began withholding payments in September 2007.

9. One Conference Call Provider that Northern Valley provides telecommunications service to is Global Conference Partners, Inc. ("Global Conference").

10. Prior to November 2010, Northern Valley did not send Global Conference a monthly invoice for telecommunications services. Northern Valley began sending monthly invoices to Global Conference in November 2010 for the provision of telecommunications services. Attached as Exhibit 29 to Northern Valley's Statement of Undisputed Facts are true and correct copies of these invoices.

11. Prior to December 2010, Global Conference did not tender a separate payment to Northern Valley for telecommunications services. Since December 2010, Global Conference has tendered a separate payment to Northern Valley for telecommunications. Attached as Exhibit 30 to Northern Valley's Statement of Undisputed Facts are true and correct copies of documents reflecting these payments.

12. Another Conference Call Provider that Northern Valley provides telecommunications service to is A+ Conferencing, Ltd. ("A+").

13. Prior to January 2011, Northern Valley did not send A+ a monthly invoice for telecommunications services. Northern Valley began sending monthly invoices to A+ in January 2011 for the provision of telecommunication services. Attached as Exhibit 39 to Northern Valley's Statement of Undisputed Facts are true and correct copies of these invoices.

14. Prior to January 2011, A+ did not tender a separate payment to Northern Valley for telecommunications services. A+ began tendering a separate payment to Northern Valley for telecommunication services in January 2011. Attached as Exhibit 40 to Northern Valley's Statement of Undisputed Facts are true and correct copies of documents reflecting these payments.

15. Another Conference Call Provider that Northern Valley provided telecommunications services to is CLEC Connect, LLC ("CLEC Connect").

16. CLEC Connect stopped receiving services from Northern Valley in or about May 2011.

17. CLEC Connect did not tender a separate payment to Northern Valley for telecommunications services either before or after executing the 2010 Telecommunications Service Agreement.

18. Another Conference Call Provider that Northern Valley provided telecommunications services to is CallAll, LLC (“CallAll”).

19. CallAll did not tender a separate payment to Northern Valley for telecommunications services.

20. CallAll began receiving service in December 2007; in or about February 2008, CallAll stopped receiving service from Northern Valley.

21. Another Conference Call Provider that Northern Valley provides telecommunications services to is Free Conferencing Corporation (“Free Conferencing”).

22. Prior to March 2011, Northern Valley did not send Free Conferencing a monthly invoice for telecommunications services. Northern Valley began sending monthly invoices to Free Conferencing in March 2011 for the provision of telecommunications services. Attached as Exhibit 53 to Northern Valley’s Statement of Undisputed Facts are true and correct copies of these invoices.

23. Prior to March 2011, Free Conferencing did not tender a separate payment to Northern Valley for telecommunications services. Free Conferencing began tendering a separate payment to Northern Valley for telecommunications services in March 2011. Attached as Exhibit 54 to Northern Valley’s Statement of Undisputed Facts are true and correct copies of documents reflecting these payments.

24. Northern Valley also provides telecommunications services to Sang Capital Group, LLC (“Sang”), a Conference Call Provider.

25. Prior to August 2011, Northern Valley did not send Sang a monthly invoice for telecommunications services. Northern Valley began sending monthly invoices to Sang in July 2011 for the provision of telecommunication services. Attached as Exhibit 60 to Northern Valley’s Statement of Undisputed Facts are true and correct copies of these invoices.

26. Prior to August 2011, Sang did not tender a separate payment to Northern Valley for telecommunications services. Sang began tendering a separate payment to Northern Valley for telecommunications services in July 2011. Attached as Exhibit 61 to Northern Valley’s Statement of Undisputed Facts are true and correct copies of documents reflecting these payments.

27. Sprint has an unpaid balance for intrastate traffic related to calls that Sprint’s customers’ made to traditional residential and business end users. Sprint has also accrued and continues to accrue late fees on the unpaid intrastate balance.

28. Sprint currently owes [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in intrastate access charges related to long-distance traffic that terminated to or originated from Northern Valley’s traditional residential and business customers. Attached as Exhibit 74 to Northern Valley’s Statement of Undisputed Facts is a true and correct copy of a document demonstrating the calculations of this amount.

29. Sprint also owes [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in interest on the unpaid balance relating to traditional residential and business customers. *See* Exhibit 74.

30. Sprint also has an unpaid balance for intrastate traffic related to calls that Sprint’s

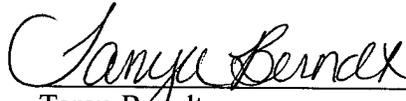
customers' made to Conference Calling Services. Sprint has also accrued and continues to accrue late fees on the unpaid intrastate balance.

31. Sprint currently owes [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in intrastate access charges related to long-distance traffic terminating to Northern Valley's the Conference Call Providers at issue in Northern Valley's Motion for Summary Judgment (*i.e.*, Global Conference Partners (November 2007 to present); One Rate; CLEC Connect; Call All; Free Conferencing; and Sang. *See* Exhibit 74.

32. Sprint also owes [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] in interest on the unpaid balance relating to traffic to the Conferencing Call Providers. *See* Exhibit 74.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on this 6th day of July 2012.



Tanya Berndt