BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

)	
IN THE MATTER OF THE AMENDED)	DOCKET NO. TC09-098
COMPLAINT OF SOUTH DAKOTA)	
NETWORK, LLC, AGAINST SPRINT)	
COMMUNICATIONS COMPANY L.P.)	
)	SPRINT COMMUNICATIONS
IN THE MATTER OF THE THIRD PARTY)	COMPANY L.P.'S MOTION FOR
COMPLAINT OF SPRINT)	SUMMARY JUDGMENT
COMMUNICATIONS COMPANY L.P.)	
AGAINST SPLITROCK PROPERTIES, INC.,)	
NORTHERN VALLEY COMMUNICATIONS,)	
INC., SANCOM, INC., AND CAPITAL)	
TELEPHONE COMPANY)	

COMES NOW, Sprint Communications Company L.P. ("Sprint"), by and through its counsel of record, Talbot J. Wieczorek Gunderson, Palmer, Nelson & Ashmore, LLP, and Philip R. Schenkenberg, Briggs and Morgan, P.A., 80 South 8th Street, 2200 IDS Center, Minneapolis, Minnesota, and pursuant to SDCL § 15-6-56 and ARSD 20:10:01:22:02, and hereby requests that the South Dakota Public Utilities Commission (the "Commission") award Sprint summary judgment with respect to Count I of its Third Party Complaint against Northern Valley Communications, Inc. ("Northern Valley").

Specifically, Sprint requests the Commission issue the following declarations with respect to charges billed through August 1, 2011:

- 1) That Northern Valley's intrastate access charges do not apply to calls delivered to Call Connection Company ("CCC") equipment in Groton;
- 2) That Northern Valley's intrastate access charges do not apply to calls that never touched Northern Valley's switching equipment;
- 3) For periods through August 1, 2011, CCCs were not legitimate end users of local exchange service for the following reasons:

- a. CCCs did not receive local exchange services;
- b. CCCs were not legitimate end user customers, but were instead business partners;
- c. CCCs did not maintain premises; and/or
- d. An application of the *Farmers II* test shows these were not traditional carrier/customer relationships as contemplated for the application of access charges.
- 4) Northern Valley's intrastate access charges billed through August 1, 2011 do not apply to calls to Northern Valley's CCCs.

Sprint's Motion is based on Sprint's Response to Northern Valley's Statement of Facts, and Sprint's Affirmative Statement of Additional Facts, its Memorandum Opposing Northern Valley's Motion for Summary Judgment, and in Support of Its Motion for Summary Judgment, the Affidavits of Regina Roach and Don Wood, and all the files, records and proceedings herein.

Dated: August 31, 2012.

BRIGGS AND MORGAN, P.A.

By <u>s/Philip R. Schenkenberg</u>
Philip R. Schenkenberg
80 South Eighth Street
2200 IDS Center
Minneapolis, MN 55402
612.977.8400

Talbot J. Wieczorek Gunderson, Palmer, Nelson & Ashmore, LLP 440 Mount Rushmore Road Third Floor P.O. Box 8045 Rapid City, SD 57701 605.342.1078

ATTORNEYS FOR SPRINT COMMUNICATIONS COMPANY L.P.