

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

**PUBLIC VERSION**

**STATEMENT OF UNDISPUTED MATERIAL FACTS IN CONJUNCTION WITH  
SPRINT COMMUNICATIONS COMPANY L.P.'S  
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Sprint Communications Company L.P. (“Sprint”), by and through its undersigned attorneys, respectfully submits its Statement of Undisputed Material Facts in Conjunction with its Motion for Partial Summary Judgment:

1. Northern Valley Communications, L.L.C. (“Northern Valley”) is a competitive local exchange carrier (“CLEC”). *See* Northern Valley’s Answer to Sprint’s Third-party Complaint, p. 8, ¶ 5.

2. Northern Valley’s Counterclaim Count II, pled in the alternative, asks the Commission to set a “reasonable rate” under SDCL § 49-13-13 for intrastate calls destined to numbers assigned to its call connection company (“CCC”) partners, in the event its intrastate access tariff does not apply. *See* Northern Valley’s Counterclaim, p. 6; Dec. 20, 2011 Hearing Tr. pp. 54-55 (arguing Commission has authority granted by statute); *id.* at 66 (“So you don’t have to go beyond 49-13-13.”).

3. The calls that are the subject of the dispute (and thus Counterclaim Count II) are delivered by Sprint to South Dakota Network, LLC (“SDN”), which delivers the calls to Northern Valley in Groton. *See* Shlanta Dep. Tr. pp. 85-86 and Shlanta Dep. Ex. 13 (attached as Exhibit A hereto).

4. Sprint is obligated by law to deliver the calls at issue, as the Federal Communications Commission (“FCC”) has prohibited carriers from engaging in call blocking as part of traffic pumping disputes. *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers, Call Blocking by Carriers*, 22 FCC Rcd. 11629, 2007 WL 1880323, ¶ 1 (2007).

5. When the calls hit Northern Valley’s network, they are delivered to CCCs through facilities owned or leased by Northern Valley. *See* Groft Vol. I Dep. Tr. pp. 51-56 (attached as Exhibit B hereto).

6. The calls are delivered in this way because they are destined to unique telephone numbers that Northern Valley has obtained and assigned to these CCCs. *See* Northern Valley’s Response to Sprint’s Interrogatory No. 5 (attached as Exhibit C hereto).

7. The “service” of delivering calls to CCCs who are assigned a unique telephone number is therefore a noncompetitive service. No other telecommunications provider delivers calls to those CCCs assigned those numbers.

8. For the year 2010, Northern Valley's switching costs have been approximately [BEGIN CONFIDENTIAL] [REDACTED]. [END CONFIDENTIAL] This is calculated as follows:

- a. Northern Valley pays its parent company James Valley \$15,000 per month to lease capacity on the Metaswitch softswitch that is used for calls to Call Connection Companies ("CCCs"). See Northern Valley's Response to Sprint's Interrogatory No. 125, p. 8 (attached as Exhibit D hereto)

[REDACTED] In September 2011 Mr. Groft testified that [BEGIN CONFIDENTIAL] [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

- d. [REDACTED]  
[REDACTED]. [END CONFIDENTIAL] See Exhibit F hereto.

9. The Commission can take judicial notice of the fact that Northern Valley has not filed a petition pursuant to SDCL § 49-31-4.1 to have the rate for this "service" set using price regulation. See SDCL § 19-10-3.

10. Northern Valley has served responses to Sprint's 2012 discovery requests in which it denied Sprint's RFA 17, which asked Northern Valley to admit that the service for

which it sought compensation is unrelated in accordance with SDCL § 49-31-5.1. See Exhibit D hereto, p. 13.

DATED this 12<sup>th</sup> day of March, 2012.

**BRIGGS AND MORGAN, P.A.**

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**ATTORNEYS FOR SPRINT  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 12<sup>th</sup> day of March, 2012, copies of **STATEMENT OF UNDISPUTED MATERIAL FACTS IN CONJUNCTION WITH SPRINT COMMUNICATIONS COMPANY L.P.'S MOTION FOR PARTIAL SUMMARY JUDGMENT** were served via email to:

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