

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE
INVESTIGATION OF PRICING
REGULATION FOR SWITCHED ACCESS
SERVICES PROVIDED BY COMPETITIVE
LOCAL EXCHANGE CARRIERS

TC10-014

**DIRECT TESTIMONY OF
LARRY THOMPSON ON BEHALF
OF NORTHERN VALLEY
COMMUNICATIONS, L.L.C. AND
SANCOM**

Q1. Please state your name, employer, business address and telephone number.

A1. My name is Larry Thompson. I am the Chief Executive Officer of Vantage Point Solutions, Inc. ("Vantage Point"). My business address is 2211 North Minnesota Street, Mitchell, South Dakota, 57301.

Q2. On whose behalf are you testifying?

A2. I am testifying on behalf of Northern Valley Communications, L.L.C. ("NVC") and Sancom, Inc. ("Sancom"). Based on my experience working with NVC and Sancom for over 10 years, I know that NVC and Sancom provide local telephone exchange service and exchange access services in South Dakota and are engaged in the provision of general telecommunications services in the State of South Dakota subject to the jurisdiction of the South Dakota Public Utilities Commission ("Commission").

Q3. Generally, what types of services does Vantage Point perform?

A3. Vantage Point is a telecommunications engineering and consulting company whose services include long range communication plans and feasibility studies, emerging technology analysis and migration studies, telecommunications electronic equipment engineering, outside plant engineering, field services engineering and regulatory consulting.

1 **Q4. What are your duties and responsibilities at Vantage Point?**

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3 A4. I am responsible for providing consulting and engineering services to clients in a wide
4 array of technical and regulatory areas associated with telecommunications. Our client
5 base consists of small Independent Telephone Companies and Competitive Local
6 Exchange Carriers such as NVC and Sancom. We have more than 100 fulltime
7 employees on staff. I am also responsible for the normal duties you would expect from
8 the chief executive officer for a company of our size.

9 **Q5. What is your educational background?**

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11 A5. I have a Bachelor of Arts in Physics from William Jewell College in Liberty, Missouri,
12 and both Bachelors and Masters degrees in Electrical and Computer Engineering from the
13 University of Kansas in Lawrence, Kansas.

14 **Q6. Do you hold any professional engineering licenses?**

15 A6. Yes. I am a licensed professional engineer in Colorado, Georgia, Iowa, Idaho, Indiana,
16 Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, South Dakota, Tennessee,
17 Utah, Washington, Wisconsin and Wyoming. I am also a member of the National
18 Council of Examiners for Engineering and Surveying (NCEES).

19 **Q7. What is your background and experience?**

20 A7. I have been involved in the telecommunications industry for 25 years. I spend much of
21 my time dealing with technical, regulatory, and financial issues surrounding our clients,
22 which are the small telecommunications carriers. I have testified before the Commission
23 on a variety of technical and regulatory subjects, presented to the FCC, spoke to United
24 States Senate panels as well as many state, regional, and national conference, and have
25 been published in several magazines and journals. I am also an active member of the

1 National Exchange Carriers Association (NECA) Rate Development Task Force. I have
2 attached a short résumé as Exhibit LT-D-1.

3 **Q8. What is the purpose of your direct testimony?**

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5 A8. The purpose of my direct testimony is to provide regulatory and policy facts relating to
6 the regulation of Competitive Local Exchange Carrier (CLEC) Switched Access
7 Services.

8 **Q9. What is rate of return regulation?**

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10 A9. Rate of return regulation is a method of setting a price that is used in the United States
11 and elsewhere. Rate of return regulation allows the service provider to recover the costs
12 of providing the service along with a pre-determined rate of return on their capital
13 investments. In order to work, this method of pricing relies on an agreed upon method of
14 identifying and allocating costs. The rationale behind rate of return regulation is to
15 ensure the service provider does not earn excess profits and achieves a return that would
16 promote investment and expansion of their networks.

17 **Q10. What is price regulation?**

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19 A10. For purposes of my testimony, "price regulation" is the procedure used by the
20 Commission to approve a charge or price for an emerging or non-competitive
21 telecommunications service which is not based on rate of return regulation. This is
22 defined in SDCL 49-31-1.4, where it states:

23 '"Price regulation' defined--Determination of fair and reasonable price. For the
24 purposes of this chapter, 'price regulation' is the procedure used by the
25 commission to approve the charge for an emerging or noncompetitive
26 telecommunications service which is not based on rate of return regulation."

1 **Q11. Is the regulation of price appropriate for non-competitive services, in particular,**
2 **non-competitive switched access services?**

3 A11. Yes. Regulation of pricing for services in a non-competitive market is appropriate, since
4 market forces do not naturally control the price. When dealing with switched access
5 charges, there are different market forces effecting originating and terminating access
6 services. Federal Communications Commission (FCC) also recognized that market
7 forces help control originating access prices since the calling party chooses his local
8 service provider, is a customer of the interexchange carrier (IXC) and chooses to place
9 the call.¹ However, for terminating access, the called party chooses their access provider,
10 yet the decision to place the call and pay for the call resides with the calling party and the
11 calling party's IXC. Since the calling party and the IXC cannot influence the choice of
12 the called party's access service provider, competitive market forces cannot directly
13 influence the price of the terminating switched access service price. Because of these
14 factors, regulators often regulate the price of switched access service to ensure that the
15 originating and terminating switched services are provided at fair and reasonable rates.

16 **Q12. Does price regulation for CLEC switched access services have a positive or negative**
17 **impact on universal service?**

18 A12. End user customers benefit from the ability to place and receive long distance calls,
19 which are made possible by access service. It is important that the regulation of the
20 CLEC switched access services be achieved in a cost efficient manner for the smaller
21 rural CLECs, since they have very few customers over which to spread their costs. The
22 Commission is acutely aware of the costs associated with negotiating agreements with

¹ *Access Charge Reform*, CC Docket 96-262, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, 11 FCC Rcd 21472 (1996) (Access Reform NPRM)

1 other carriers, especially larger carriers that wield significant market power. Many of
2 these negotiations could result in disagreements that would result in expensive hearings
3 and significant costs to the CLEC and ultimately the CLEC customers. Alternatively, the
4 CLEC could use rate of return regulation, which would require the CLEC to develop a
5 cost separations study that identifies and allocates the CLEC costs. These studies are
6 expensive for the CLEC to develop and time consuming for the Commission to review
7 and approve.

8 **Q13. What type regulation of the pricing is used by the FCC for CLEC interstate**
9 **switched access rates?**

10 A13. The FCC has established benchmark access rates for CLECs. The FCC has established a
11 separate access rate structure for CLECs that qualify for a rural exemption, such as NVC
12 and Sancom. The FCC allows the CLEC to tariff their access services at or below the
13 FCC benchmark rate which allows both the IXC and the CLEC to enjoy the convenience
14 of a tariff. Rates above the benchmark require the CLEC and IXC to negotiate a separate
15 agreement for access services. This is similar to the "price regulation" envisioned by
16 SDCL 49-31-1.4.

17 **Q14. Is price regulation more "fair and reasonable" than rate of return regulation for**
18 **CLEC switched access services?**

19 A14. It is normally more efficient for the Commission to determine a rate for switched access
20 services that the CLEC can tariff. This avoids the costs associated with the detailed
21 accounting and cost identification that is required for rate of return regulation. These
22 costs can be a barrier for entry for the CLEC and can result in increased costs to the end
23 user customers.

1 Q15. Does that conclude your testimony?

2 A15. Yes. However, I wish to reserve the opportunity to supplement this testimony in the
3 future, if necessary.

4

5

Exhibit LT-D-1

Résumé

Of Larry D. Thompson

Currently

- I am a registered professional engineer in 17 states and Chief Executive Officer of Vantage Point Solutions.

Education

- Bachelor of Arts degree in Physics from William Jewell College (1983)
- Bachelor of Science in Electrical Engineering from the University of Kansas (1985)
- Master of Science degree in Electrical and Computer Engineering from the University of Kansas (1986)

Employment History

- 1985-1991: Satellite Systems Engineer – TRW, Inc (Redondo Beach, CA)
 - Designed communication payloads of satellite systems.
- 1991-1996: Senior Engineer – CyberLink Corporation (Boulder, CO)
 - Communications consulting in a small telecommunications consulting firm.
- 1996-2000: Senior Engineer – Martin and Associates, Inc. (Mitchell, SD)
 - Provided engineering and consulting services to Rural LECs.
- 2000-2002: General Manager of TCE – Martin Group, Inc. (Mitchell, SD)
 - Managed a growing department of approximately 100 engineers and consultants
- 2002-Present: CEO – Vantage Point Solutions, Inc. (Mitchell, SD)
 - Provide engineering, consulting, and regulatory services to rural LECs in South Dakota and elsewhere.

Industry Activities

- Participated in Senate and FCC panels
- Frequent speaker at state and national conferences
- Speaker at various FCC and US Senate events
- Member of NECA Rate Development Task Force and other Task Forces
- Published in various industry magazines and trade journals