

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

DOCKET NUMBER TC 09-098

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


**SPRINT COMMUNICATIONS COMPANY L.P.'S  
MOTION TO DISMISS SANCOM'S CROSS-CLAIM**

COMES NOW Sprint Communications Company L.P. ("Sprint") by and through its attorney of record Talbot J. Wieczorek of Gunderson, Palmer, Nelson & Ashmore, LLP, 440 Mount Rushmore Road, Third Floor, P.O. Box 8045, Rapid City, South Dakota 57701 and Philip R. Schenkenberg, Briggs and Morgan, P.A., 2200 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402, pursuant to ARSD 20:10:01:11.1 and SDCL 15-6-12 move to dismiss the Cross-claim of Sancom, Inc. ("Sancom") for the following reasons:

The Cross-claim seeks damages from Sprint for which Sancom has already chosen to seek compensation in Docket No. 4:07-CV-04107-KES in the United States District Court for the District of South Dakota. Pursuant to SDCL 49-13-1.1, once Sancom elected to seek damages in court, it was barred from seeking recovery for these very same damages before the Commission. Sprint's Memorandum in Support of Its Motion to Dismiss is filed contemporaneously herewith.

Dated: February 11, 2010.

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