



319 South Coteau Street
P.O. Box 280
Pierre, SD 57501

Phone: 605-224-5825
Fax: 605-224-7102
www.riterlaw.com

December 23, 2009

Patricia Van Gerpen, Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

Re: In the Matter of the Complaint of South Dakota Network, LLC, Against Sprint
Communications company, LP – Docket Number TC09-098

Dear Ms. Van Gerpen:

On December 14, 2009, we electronically filed SDN's Reply to Sprint's Counterclaim in the above-named docket. It was recently called to our attention that a scanning error occurred, and pages 3 and 4 of the Reply were omitted in the filed document.

Accordingly, we are re-filing and re-serving SDN's Reply to Sprint's Counterclaim.

Sincerely yours,

A handwritten signature in black ink that reads 'Margo D. Northrup'. The signature is written in a cursive style and includes a circled 'D' after the first name.

Margo D. Northrup
Attorney at Law

MDN/dk

Enclosures

CC: Service List

Robert C. Riter, Jr.
Darla Pollman Rogers

Jerry L. Wattier
Margo D. Northrup

Lindsey Riter-Rapp, Associate
Robert D. Hofer, Of Counsel



319 South Coreau Street
P.O. Box 280
Pierre, SD 57501

Phone: 605-224-5825
Fax: 605-224-7102
www.riterlaw.com

December 14, 2009

Patricia Van Gerpen, Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

Re: In the Matter of the Complaint of South Dakota Network, LLC, Against Sprint
Communications company, LP – Docket Number TC09-098

Dear Ms. Van Gerpen:

Please find attached hereto a copy of the South Dakota Network, LLC's Reply to
Counterclaim of Sprint Communications Company LP for electronic filing.

Sincerely yours,

A handwritten signature in cursive script that reads 'Darla Pollman Rogers'.

Darla Pollman Rogers
Attorney at Law

DPR/dk

Enclosures

CC: Service List

Robert C. Riter, Jr.
Darla Pollman Rogers

Jerry L. Wattier
Margo D. Northrup

Lindsey Riter-Rapp, Associate
Robert D. Hofer, Of Counsel

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

DOCKET NUMBER TC09-098

IN THE MATTER OF THE)
COMPLAINT OF SOUTH DAKOTA)
NETWORK, LLC, AGAINST SPRINT) SOUTH DAKOTA NETWORK, LLC'S
COMMUNICATIONS COMPANY, LP) REPLY TO COUNTERCLAIM OF
SPRINT COMMUNICATIONS
COMPANY LP)
)
)
)

COMES NOW, South Dakota Network, LLC, (hereinafter referred to as "SDN")
and for its Reply to the Counterclaim of Sprint Communications Company LP, (hereinafter
"Sprint"), states and alleges as follows:

1. That the Counterclaim fails to state a cause of action against SDN for the relief prayed for therein.
2. Denies each and every matter, fact, statement and thing contained in said Counterclaim except as is specifically admitted herein.
3. Specifically admits paragraphs 27, 28, 29, 30 and 31.
4. With regard to paragraph 32, the allegations set forth therein are factual allegations and legal conclusions which are contested and/or factual allegations for which SDN has insufficient knowledge so as to admit or deny. SDN therefore denies the same and remits Sprint to strict proof thereof. SDN further affirmatively asserts the tariff speaks for itself.
5. With regard to paragraph 33, deny.
6. With regard to paragraph 34, SDN states it does not have sufficient information or belief to either admit or deny said paragraph and therefore denies the same and puts Sprint upon its strict proof thereof.

7. With regard to paragraph 35, SDN denies the same inasmuch as Sancom and Northern Valley have no ownership interest in SDN. SDN admits that Splitrock has a minority ownership interest in SDN.

8. With regard to paragraphs 36, 37, and 38, the allegations set forth therein are factual allegations and legal conclusions which are contested and/or factual allegations for which SDN has insufficient knowledge so as to admit or deny. SDN therefore denies the same and remits Sprint to strict proof thereof. SDN further alleges the reference to the Iowa Utilities Board decision is improper as it is not binding authority on this Commission and should be stricken from the pleading.

9. With regard to paragraph 39, deny.

10. With regard to paragraph 40, SDN states it does not have sufficient information or belief to either admit or deny the activities of Sancom, Splitrock, Northern Valley, and Capital and thus denies the same and puts Sprint upon its strict proof thereof. SDN also admits Sprint submitted a dispute as indicated therein. SDN denies the remainder of the paragraph and further states it lawfully billed Sprint for centralized switched access charges.

11. With regard to paragraph 41, SDN admits Sprint has disputed its obligation to pay SDN's switched access charges for May 2009 through current. SDN denies the remainder of the paragraph and states Sprint's refund practices in this regard are unlawful.

Count I

Refund of Amounts Unlawfully Billed Pursuant to State Access Tariff

12. As to paragraph 42, SDN re-alleges those responses as set forth in paragraphs 1 through 11 above as if set forth fully herein.

13. With regard to paragraph 43, deny.

14. With regard to paragraph 44, the averments set forth therein are factual and legal conclusions which are contested and SDN therefore denies the same and remits Sprint to its strict proof thereof. In addition, any alleged claims of statutory or tariff violations or resulting damages as set forth by Sprint in Paragraph 44 are issues for determination as a matter of law or by the trier of fact, and SDN therefore further denies the same and remits Sprint to its strict proof thereof.

15. With regard to paragraphs 45 and 46, deny.

Count II

Declaratory Judgment

16. With regard to paragraph 47, SDN re-alleges those responses as set forth in paragraphs 1 through 15 above as if set forth fully herein.

17. With regard to paragraphs 48 and 49, SDCL 21-24-1 only applies to judicial actions and SDCL 1-26-15 authorizes agencies to respond to petitions for declaratory rulings only as to the applicability of any statutory provision or of any rule or order of the agency. Hence, SDN denies that the statutory authority referenced provides authority for Sprint to assert the claim included in Count II. Accordingly, jurisdiction over the subject matter is lacking and SDN alleges that Count II should be dismissed.

Count III

Unreasonable Practices

18. With regard to Paragraph 50, SDN re-alleges those responses as set forth in paragraphs 1 through 17 above as if set forth fully herein.

19. As to paragraphs 51 and 52, deny.

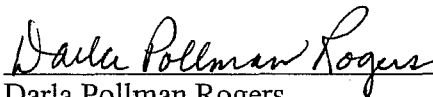
AFFIRMATIVE DEFENSES

1. As an affirmative defense, SDN alleges Sprint's own acts or omissions have caused or contributed to the circumstances and damages alleged in its Counterclaim to an extent to bar all recovery against SDN.
2. As an affirmative defense, SDN alleges that Sprint's claims are barred by the equitable principles of waiver, estoppel, unclean hands, laches and *in pari delicto*.
3. As an affirmative defense, SDN alleges that Sprint has failed to mitigate its damages.
4. As an affirmative defense, SDN alleges that Sprint has not properly followed the dispute procedures set forth in SDN's tariff and is barred from proceeding herein.

WHEREFORE, SDN prays Sprint's Counterclaim be dismissed and that the relief requested by SDN in the Complaint be granted.

DATED this 14th day of December, 2009.

RITER, ROGERS, WATTIER &
NORTHROP, LLP



Darla Pollman Rogers
Margo D. Northrup
Riter, Rogers, Wattier & Northrup, LLP
PO Box 280
Pierre, SD 57501
Telephone (605) 224-5825
Fax (605) 224-7102

William P. Heaston
Director of Business Development
South Dakota Network, LLC
2900 W. 10th Street
Sioux Falls, SD 57104

Attorneys for South Dakota Network, LLC

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

DOCKET NUMBER TC09-098

)
)
IN THE MATTER OF THE)
COMPLAINT OF SOUTH DAKOTA) SOUTH DAKOTA NETWORK, LLC'S
NETWORK, LLC, AGAINST SPRINT) REPLY TO COUNTERCLAIM OF
COMMUNICATIONS COMPANY, LP) SPRINT COMMUNICATIONS
) COMPANY LP
)
)
)

CERTIFICATE OF SERVICE

The undersigned certifies that on the 14th day of December, 2009, I served a true and correct copy of South Dakota Network, LLC'S Reply to Counterclaim of Sprint Communications Company LP, in the above-entitled matter, by email to:

Ms. Patricia Van Gerpen
Executive director
South Dakota Public Utilities commission
500 East Capitol
Pierre, SD 57501

Ms. Karen E Cremer
Staff Attorney
South Dakota Public Utilities commission
500 East Capitol
Pierre, SD 57501

Ms Terri Labrie Baker
Staff Analyst
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

Mr William Heaston
Director
Business Development
SDN Communications
2900 West 10th Street
Sioux Falls, SD 57104

Mr Talbot J Wiczorek
Attorney at Law
Gunderson Palmer Goodsell & Nelson
Po Box 8045
Rapid city SD 57709

Mr Philip Schenkenberg
Attorney at Law
Briggs and Morgan P.A.
80 South Eighth Street
2200 IDS Cetner
Minneapolis MN 55402

Meredith Moore
Cutler & Donahoe
100 N. Phillips Ave # 901
Sioux Falls, SD 57104

Jim Cremer
Bantz, Gosch & Cremer
PO Box 970
Aberdeen, SD 57401

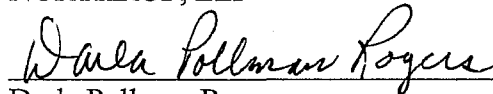
Jeff Larson
Larson & Nipe
PO Box 277
Woonsocket, SD 57385

And by first class mail to:

Steve Boyd
Capital Telephone Company, Inc.,
2639 South Durango, Suite 102,
Las Vegas, Nevada 89117

DATED this 14th day of December, 2009.

RITER, ROGERS, WATTIER &
NORTHRUP, LLP



Darla Pollman Rogers

Margo D. Northrup

Riter, Rogers, Wattier & Northrup, LLP

PO Box 280

Pierre, SD 57501

Telephone (605) 224-5825

Fax (605) 224-7102