

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

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

DOCKET NUMBER TC 09-098

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

**NORTHERN VALLEY
COMMUNICATIONS, LLC'S
MOTION TO COMPEL**

Northern Valley Communications, L.L.C. ("Northern Valley"), by and through counsel, and pursuant to S.D. Admin. R. 20:10:01:01.02 and SDCL § 15-6-37(a), hereby files its Motion to Compel against Sprint Communications Company LP ("Sprint").

As explained more fully in the accompanying memorandum, Sprint has gone to great lengths in its efforts to avoid providing substantive responses to Northern Valley's interrogatories or to provide responsive documents. For example, despite the Commission's recent determination that Northern Valley is entitled to maintain its Count II, which is an alternative claim for a declaratory relief that would ask the Commission to establish a reasonable rate for the disputed traffic in the event its tariff is found to be inapplicable, Sprint has maintained its position that it will not provide *any* discovery relating to Northern Valley's claim. Indeed, since learning the Commission's decision, Sprint has provided *no* new documents and provided *no* new substantive response to Northern Valley's interrogatories. Sprint has even failed to withdraw its objections and, thus, continues to assert that it will not provide discovery because "Northern

Valley's unjust enrichment claim . . . is not properly before the Commission." While it has taken many forms, this discovery dispute with Sprint has essentially been going on for nearly a year. It must finally be put to rest.

In addition, Northern Valley has tried unsuccessfully to get Sprint to remove improper redactions from some of its prior discovery production. While Sprint has provided unredacted spreadsheets, it chooses to ignore the import of the Commission's prior consideration of this issue and resists Northern Valley's repeated requests for it to eliminate the improper redactions of non-privileged matter in emails and email attachments. Sprint's prolonged refusal to address this issue has also necessitated this further motion to compel.

Finally, because Sprint's discovery tactics are unreasonable and have served only to needlessly increase Northern Valley's time and expenses to obtain discovery, Sprint should be required to pay Northern Valley fees and costs for this motion.

Dated: February 15, 2012

James M. Cremer
James M. Cremer
BANTZ, GOSCH & CREMER, L.L.C.
305 Sixth Avenue SE; P.O. Box 970
Aberdeen, SD 57402-0970
605-225-2232; 605-225-2497 (fax)
jcremer@bantzlaw.com

Ross A. Buntrock (*pro hac vice*)
G. David Carter (*pro hac vice*)
ARENT FOX LLP
1050 Connecticut Avenue NW
Washington, DC 20036-5339
202-775-5734; 202-775-6395 (fax)
buntrock.ross@arentfox.com
carter.david@arentfox.com

Counsel for Northern Valley Communications, L.L.C.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served electronically on the 15th day of February 2012 upon the following:

Ms. Patricia Van Gerpen
Executive Director
SD Public Utilities Commission
500 East Capitol Avenue, 1st Floor
Pierre, SD 57501-5070
605-773-3201; 866-757-6031 (fax)
patty.vangerpen@state.sd.us

Ms. Karen E. Cremer
Staff Attorney
SD Public Utilities Commission
500 East Capitol Avenue, 1st Floor
Pierre, SD 57501-5070
605-773-3201; 866-757-6031 (fax)
karen.cremer@state.sd.us

Ms. Darla Pollman Rogers
Attorney at Law
Riter Rogers Wattier & Northrup LLP
P.O. Box 280
Pierre, SD 57501-0280
605-224-5825; 605-224-7102 (fax)
dprogers@riterlaw.com

Ms. Margo D. Northrup
Attorney at Law
Riter Rogers Wattier & Northrup LLP
P.O. Box 280
Pierre, SD 57501-0280
605-224-5825; 605-224-7102 (fax)
m.northrup@riterlaw.com

Mr. William P. Heaston
Director, Business Development
SDN Communications
2900 W. 10th Street
Sioux Falls, SD 57104-2543
605-978-3596
bill.heaston@sdncommunications.com

Mr. Talbot Wieczorek
Attorney at Law
Gunderson Palmer Nelson & Ashmore LLP
P.O. Box 8045
Rapid City, SD 57709-8045
605-342-1078; 605-342-0480 (fax)
tjw@gpnalaw.com

Mr. Philip R. Schenkenberg
Briggs and Morgan, P.A.
80 South Eighth Street
2200 IDS Center
Minneapolis, MN 55402
612-977-8400; 612-977-8650 (fax)
pschenkenberg@briggs.com

Mr. Jeffrey D. Larson
Attorney at Law
Larson & Nipe
P.O. Box 277
Woonsocket, SD 57385-0277
605-796-4245; 605-796-4227 (fax)
jdlarson@santel.net

James M. Cremer

BANTZ, GOSCH & CREMER, L.L.C.
Attorneys for Northern Valley Communications, L.L.C.
305 Sixth Avenue SE
P.O. Box 970
Aberdeen, SD 57402-0970
605-225-2232
605-225-2497 (fax)
jcremer@bantzlaw.com