

**Sprint's  
Exhibit 130**

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**TC09-023 - In the Matter of the Filing by Northern Valley Communications, L.L.C. for Designation as an Eligible Telecommunications Carrier.**

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Date Filed: 05/14/09 ♦ Intervention Date: 06/05/09 ♦ Closed Docket: 11/05/09 ♦

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**Service List**

**Weekly Filing:**

Weekly Filings 05/14/09 to 05/20/09

**Agendas:**

October 20, 2009, Agenda to Commission Meeting  
September 8, 2009, Agenda to Commission Meeting

**Minutes:**

Minutes of October 20, 2009, Commission Meeting  
Minutes of September 8, 2009, Commission Meeting

**Orders:**  Orders are in Adobe Acrobat \*.pdf format

- ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS DESIGNATION; ORDER GRANTING CERTIFICATION

**Open Docket      Closed Docket**

- 05/13/09 - Petition of Northern Valley Communications, L.L.C.
  - Exhibit 1
  - Exhibit 2 Confidential (Not available to the public)
  - Certificate of Service
- 10/06/09 - Supplemental Filing
- 11/05/09 - Letter to FCC and USAC Regarding Certification

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

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In the Matter of the Application of  
Northern Valley Communications,  
L.L.C. for Designation as an Eligible  
Telecommunications Carrier.

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DOCKET NO. \_\_\_\_\_

**Petition of Northern Valley  
Communications, L.L.C.**

\* \* \* \* \*

Northern Valley Communications, L.L.C., a South Dakota limited liability company, ("NVC" or the "Company") by its attorney, James M Cremer of Bantz, Gosch & Cremer of Aberdeen, SD, pursuant to SDCL 49-31-78, ARSD 20:10:32:43 and Section 214(e)(2) of the Telecommunications Act of 1934, as amended ("Act"), 47 U.S.C. § 214(e)(2), and Section 54.201 of the Federal Communications Commission's ("FCC") rules, 47 C.F.R. § 54.201 submits this Petition for Designation as an Eligible Telecommunications Carrier ("ETC") for its telecommunications operations. NVC requests that its operation be designated as eligible to receive all available support from the federal Universal Service Fund ("USF") including, but not limited to, support for rural, insular and high-cost areas and low-income customers. In support of this Petition, NVC states as follows:

**I. Name and Address of Petitioner.**

1. The name and contact information of Petitioner are:

**Northern Valley Communications, L.L.C.**  
2211 8th Avenue NE  
Aberdeen, SD 57401

Contact person:  
**James Groft, CEO**  
605-725-1000

**II. Proposed Effective Date.**

2. The proposed effective date of the designation of ETC status is immediately upon the date the Commission approves the petition.

### III. Service Area.

3. NVC requests that it be designated as an ETC in the Aberdeen and Redfield exchanges of Qwest. A map of NVC's proposed ETC service area is attached hereto as **Exhibit 1**.

### IV. The Petition Satisfies the Requirements for an ETC under 47 C.F.R. § 54.201.

4. Section 54.201(d) of the FCC's rules provide that carriers designated as ETCs shall, throughout the designated ETC service area, (a) offer the services that are supported by federal universal service support mechanisms either using their own facilities or a combination of their own facilities and resale of another carrier's services, and (b) advertise the availability of such services and the charges therefore using media of general distribution. The nine services which are supported by the federal USF are:
  - 1) voice grade access to the public switched network;
  - 2) local usage;
  - 3) dual tone multi-frequency signaling or its functional equivalent;
  - 4) single-party service or its functional equivalent;
  - 5) access to emergency services;
  - 6) access to operator services;
  - 7) access to interexchange service;
  - 8) access to directory assistance; and
  - 9) toll limitation for qualifying low-income consumers.
5. NVC is a full-service telecommunications carrier that offers all of these services. NVC therefore satisfies the requirements of 47 C.F.R. § 54.201.
6. Voice Grade Access. NVC provides voice grade access to the public switched network through interconnection arrangements with local telephone companies. NVC will respond to reasonable requests for service by providing service to a customer who has a billing address in the service area at the customer's billing address or at a different address specified by the customer that represents the customer's home or work location.
7. Local Usage. NVC offers a variety of rate plans that provide local usage consistent with 47 C.F.R. § 54.101(a)(2). NVC will comply with any and all minimum local usage requirements adopted by the FCC.
8. Single Party Service. NVC provides single party service, as that term is defined in Section 54.101 of the FCC's rules.

9. Access to Emergency Services. NVC provides E911 access to emergency services throughout its service area.
10. Access to Operator Services. NVC provides customer access to operator services. Customers can reach operator services in the traditional manner by dialing "0".
11. Access to Interexchange Services. NVC has established connections with interexchange carriers. These arrangements will enable NVC to provide its customers access to interexchange services. Customers may also "dial around" to reach their interexchange carrier of choice.
12. Access to Directory Assistance. NVC will establish an arrangement with a Directory Assistance provider. Subscribers to NVC's services will be able to dial "411" or "555-1212" to reach directory assistance from their phones.
13. Toll Limitation. NVC will provide toll limitation by utilizing its toll blocking capabilities, enabling NVC to provide toll blocking service for Lifeline customers once NVC is designated an ETC.
14. Advertisement of Services. Pursuant to Section 54.201 of the FCC's rules, 47 C.F.R. § 54.201, NVC will advertise the availability of each of the supported services detailed above, throughout its service area, by media of general distribution. The methods of advertising may include newspaper, magazine, direct mailings, public exhibits and displays, bill inserts and telephone directory advertising. In addition, NVC will advertise the availability of Lifeline and Linkup benefits throughout its service area by including mention of such benefits in advertising and reaching out to community health, welfare, and employment offices to provide information to those people most likely to qualify for Lifeline and Linkup benefits.

**V. NVC's Petition is in the Public Interest.**

15. NVC's petition will serve the public interest by increasing consumer choice, improve service quality, enhance health and safety benefits, and enhance competition.
  - A. **Increased Consumer Choice and Service Quality.**
16. Designation of NVC will advance universal service, promote competition and facilitate the provision of advanced communications services to the residents of South Dakota.

17. With ETC designation, NVC will be able to offer Lifeline and Link-Up programs, to what is anticipated to be a growing number of eligible consumers due to the effects of the economic downturn.

**B. Health and Safety Benefits.**

18. Designation of NVC as an ETC will help address the health and safety risks associated with geographic isolation in rural communities.

**C. Competitive Response.**

19. One of the principal goals of the 1996 Act was to "promote competition and reduce regulation in order to secure lower prices and high-quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies." Competition in rural areas increases facilities and spurs development of advanced communications as carriers vie for a consumer's business.
20. The public interest standard under Section 214(e)(2) for designating ETCs in territories served by rural telephone companies emphasizes competition and consumer benefit, not incumbent protection.

Under the identical support rule, NVC will receive very little USF support at the present time and, therefore, granting this petition will not place additional burdens on the fund.

**D. Service Quality.**

21. NVC's two year capital investment plan demonstrates its commitment to providing a high level of service in the proposed service area. To justify the capital investment necessary for the build out, NVC will need to attract sufficient customers. It believes its level of service will distinguish it from the existing providers which will allow it to attract the customer base necessary to support this investment.

**VI. Demonstration of Commitment to Provide Service.**

22. NVC certifies that it will:
  - a. Provide service on a timely basis to requesting customers within its proposed designated service area where its network already passes the potential customer's premises; and

- b. If the potential customer is within NVC's proposed designated service area but outside its existing network, it will provide service within a reasonable period of time, if the service does not impose excessive or unreasonable cost, by:
  - 1. Modifying or replacing the requesting customers' equipment;
  - 2. Extending facilities, such as constructing or expanding an access line;
  - 3. Adjusting network or customer facilities;
  - 4. Reselling services of another carrier's facilities to provide service; or
  - 5. Employing, leasing, or constructing additional network facilities.

#### **VII. Two-Year Plan.**

- 23. Attached hereto as **Exhibit 2** is NVC's two-year capital investment plan. In addition, NVC states as follows:
  - a. The service quality, coverage, and capacity will improve due to NVC's capital investment plan.
  - b. The estimated amount of investment for this project is set forth in **Exhibit 2**.
  - c. The geographic areas where improvements will be made are shown on the map attached hereto as **Exhibit 1**.
  - d. The estimated population that will be served is 40,000.

#### **VIII. Ability to Remain Functional in Emergency Situations.**

- 24. NVC's parent, James Valley Cooperative Telephone Company, employs a staff of more than 50 people, including an experienced engineering and technical support team that provides on-call emergency support 24 hours a day, seven days a week. NVC's response time to an outage report is normally less than one hour.
- 25. NVC's system will be reinforced by the presence of battery backups and diesel generators installed at its central office, which are capable of running indefinitely in the event of a major electrical outage.

26. The company's customer service representatives may be reached toll-free. Customer service representatives may be contacted through a number of convenient methods, including: (a) visiting the company's locally-owned retail/customer service locations in Aberdeen, South Dakota (b) a 1-800 toll-free number from any phone; or (c) by contacting our customer care center through the e-mail address provided on our web site.

**IX. Ability to Satisfy Consumer Protection and Service Quality Standards.**

27. NVC will commit to the CTIA Consumer Code for Wireless Service.

**X. Offering of Comparable Local Usage Plan.**

28. The rate plans NVC offers are compatible with the plans offered by the incumbent local exchange carrier, Qwest.

**XI. Provisioning of Equal Access.**

29. NVC certifies that it will be able to provide equal access to long-distance carriers if no other eligible communications carrier is providing equal access within the service area.

WHEREFORE, NVC requests that the Commission, (1) enter an Order designating NVC as an ETC for its requested ETC service area as shown on **Exhibit 1** hereto, and (2) certify to the FCC that NVC will use the support for its intended purpose.

Dated this 14th day of May 2009.

**BANTZ, GOSCH & CREMER, L.L.C.**

*James M. Cremer*

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

<b>IN THE MATTER OF THE FILING BY )</b>	<b>ORDER GRANTING</b>
<b>NORTHERN VALLEY COMMUNICATIONS, LLC )</b>	<b>ELIGIBLE</b>
<b>FOR DESIGNATION AS AN ELIGIBLE )</b>	<b>TELECOMMUNICATIONS</b>
<b>TELECOMMUNICATIONS CARRIER )</b>	<b>DESIGNATION; ORDER</b>
<b>)</b>	<b>GRANTING CERTIFICATION</b>
<b>)</b>	<b>TC09-023</b>

On May 14, 2009, the Public Utilities Commission (Commission) received a petition from Northern Valley Communications, LLC (NVC) for designation as an eligible telecommunications carrier (ETC). NVC requested that its operation be designated as eligible to receive all available support from the Federal Universal Service Fund (USF) including, but not limited to, support for rural, insular and high-cost areas and low-income customers. NVC requested that it be designated as an ETC in the Aberdeen and Redfield exchanges of Qwest. NVC also requested that certification be sent to the FCC and the Universal Service Administrative Company (USAC) stating that NVC will use the federal universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support was intended.

On May 21, 2009, the Commission electronically transmitted notice of the filing and the intervention deadline of June 5, 2009, to interested individual and entities. No Petitions to Intervene were filed. On October 6, 2009, the Commission received a Supplemental Filing from NVC.

At its October 20, 2009, meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-31, and 47 U.S.C. § 214. The Commission voted unanimously to approve the petition.

In order to be designated an ETC, a carrier must offer the supported services throughout the service area for which the designation is received and advertise the availability of, and the charges for, those services throughout the service area. 47 U.S.C. § 214(e). The Federal Communications Commission (FCC) has designated the following services or functionalities as those supported by federal universal service support mechanisms: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a). In its filing, NVC stated that it will offer all of the supported services. The Commission finds that NVC is able to offer the supported services.

A carrier must offer the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services. . . ." 47 U.S.C. § 214(e)(1)(A). NVC stated that it has existing facilities-based services in the cities of Redfield and Aberdeen. NVC's facilities-based services do not cover the entire cities of Redfield and Aberdeen and do not cover the rural portions of the Redfield and Aberdeen exchanges. NVW plans to continue to build out in the cities of Redfield and Aberdeen. For those parts of the cities where it has not yet built out, NVC will lease wireless service from its subsidiary, James Valley Wireless LLC (JVW), and will provide "a fixed-line terminal capable of providing the supported services throughout the customer premises." NVC will provide this same service in the rural areas of the Redfield and Aberdeen exchanges. Thus, the Commission finds NVC meets this requirement.

The carrier must also advertise the availability of such services and the rates for the services using media of general distribution. 47 U.S.C. § 214(e)(1)(B). NVC stated that it will meet this requirement through media of general distribution that may include newspapers, magazines, direct mailings, public exhibits and displays, bill inserts, and telephone directory advertising. NVC further committed to advertising the availability of Lifeline and Link-Up services by reaching out to community, health, welfare, and employment offices to provide information to potential recipients of Lifeline and Link-Up services. The Commission finds NVC has demonstrated that it will meet the advertising requirement.

The Commission has adopted ETC rules that are similar to the rules adopted by the FCC. See ARSD 20:10:32:42 through 20:10:32:46. As the FCC stated in its order adopting its new ETC rules, the new rules were designed to "create a more rigorous ETC designation process" and because of this more rigorous process, the "long-term sustainability of the universal service fund" would be improved. *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 05-46, Report and Order, ¶ 2 (rel. March 17, 2005) ("*FCC Order Regarding ETC Designations*").

Pursuant to ARSD 20:10:32:43.01, an applicant for ETC status must commit to providing service to customers making a reasonable request for service in the service area. NVC has made that commitment in its filing. NVC certified that it will:

(1) Provide service on a timely basis to requesting customers within the applicant's proposed designated service area where the applicant's network already passes the potential customer's premises; and

(2) If the potential customer is within the applicant's proposed designated service area but outside its existing network coverage, provide service within a reasonable period of time, if the service does not impose excessive or unreasonable cost, by:

(a) Modifying or replacing the requesting customer's equipment;

(b) Extending facilities, such as constructing or extending an access line, deploying a roof-mounted antenna, or installing other equipment;

(c) Adjusting the nearest cell tower;

(d) Adjusting network or customer facilities;

(e) Reselling services from another carrier's facilities to provide service; or

(f) Employing, leasing, or constructing additional network facilities such as an access line, a cell site, cell extender, repeater, or other similar equipment.

Pursuant to ARSD 20:10:32:43.02, an applicant must provide a two year plan that explains upgrades or improvements the applicant will make in each wire center. NVC provided a two-year plan setting forth the upgrades and improvements it plans on making in that two year period.

Pursuant to ARSD 20:10:32:43.03, an applicant must demonstrate its ability to remain functional in emergency situations. NVC explained how it intended to remain functional in emergency situations. NVC stated that it has "battery back-ups and diesel generators at its central office, which are capable of running indefinitely in the event of a major electrical outage."

Pursuant to ARSD 20:10:32:43.04, an applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. NVC stated that it has an

"experienced engineering and technical support team that provides on-call emergency support 24 hours a day, seven days a week. NVC's response time to an outage report is normally less than one hour." NVC further stated that it will commit to the CTIA consumer Code for Wireless Service.

Pursuant to 20:10:32:43.05, an applicant must demonstrate that it offers a local usage plan comparable to the one offered by the incumbent carrier. NVC stated that its rate plans are comparable with the plans offered by Qwest.

Pursuant to 20:10:32:43.06, an applicant must certify that it will be able to provide equal access to long distance carriers if no other ETC is providing equal access within the service area. NVC certified that it would do so.

The Commission finds that NVC has met the requirements of ARSD 20:10:32:43.01 through 20:10:32:43.06.

In order to designate an applicant as an ETC, the Commission must determine whether such designation is in the public interest. When making this determination, the Commission must consider the following:

Prior to designating an eligible telecommunications carrier, the commission shall determine that such designation is in the public interest. The commission shall consider the benefits of increased consumer choice, the impact of multiple designations on the universal service fund, the unique advantages and disadvantages of the applicant's service offering, commitments made regarding the quality of the telephone service provided by the applicant, and the applicant's ability to provide the supported services throughout the designated service area within a reasonable time frame. In addition, the commission shall consider whether the designation of the applicant will have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier. If an applicant seeks designation below the study area level of a rural telephone company, the commission shall also conduct a creamskimming analysis that compares the population density of each wire center in which the applicant seeks designation against that of the wire centers in the study area in which the applicant does not seek designation. In its creamskimming analysis, the commission shall consider other factors, such as disaggregation of support pursuant to 47 C.F.R. § 54.315 (January 1, 2006) by the incumbent local exchange carrier.

ARSD 20:10:32:43.07.

In accordance with the public interest rule, the Commission will begin by considering the benefits of increased consumer choice. The Commission first notes that the FCC has stated that "the value of increased competition, by itself, is unlikely to satisfy the public interest test." *FCC Order Regarding ETC Designations* at ¶ 44. In its prior decisions in which it designated competing carriers as ETCs in areas served by a rural telephone company, the Commission looked at the benefits of expanded local calling areas, mobility, and the provisioning of service in areas that are not currently served or are underserved. *See e.g.*, In the Matter of the Filing by WWC Holding Co., Inc. d/b/a CellularOne for Designation as an Eligible Telecommunications Carrier in Other Rural Areas, *Order Designating Western Wireless as an Eligible Telecommunications Carrier*, Docket TC03-191, at ¶ 20 (September 2, 2004). NVC asserts that its designation as an ETC will "advance universal service, promote competition and facilitate the provision of advanced communications services to the residents of South Dakota." The Commission finds that the designation of NVC will bring the benefits of increased consumer choice.

Next, the Commission will consider the impact of multiple designations on the universal service fund. The FCC has stated that "analyzing the impact of one ETC on the overall fund may be inconclusive." *FCC Order Regarding ETC Designations* at ¶ 54. However, the analysis regarding the impact of multiple designations on the universal service fund has recently been affected by an FCC order which caps the amount of universal service funds for competitive ETCs. *In the Matter of High Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order (rel. May 1, 2008). In this order, the FCC capped the total annual competitive ETC support for each state at the level of support that competitive ETCs in that state were eligible to receive during March 2008 on an annualized basis. The FCC adopted this as an interim emergency cap and stated that it will be of limited duration. Thus, the Commission finds that, at this time, multiple designations will have no or limited impact on the overall size of the universal service fund given that the support is currently capped for competitive ETCs. In addition, the Commission notes that the Aberdeen exchange does not receive any high cost funding. ETCs in the Aberdeen exchange are eligible to receive Lifeline and Link-Up funds. The Redfield exchange does receive high cost support.

The Commission will next consider any unique advantages and disadvantages of the applicant's service offerings and NVC's commitments regarding its telephone service quality. NVC stated that its network "consists of newly constructed fiber optic lines and electronic equipment bringing the very best in bandwidth capacity, network survivability, reduced power consumption, and improved network routing algorithms." In addition NVC stated that it provides improved customer service "staffed by local residents who live in the affected areas and know the people that they serve." In addition, NVC provides on-call emergency support 24 hours a day, each day. NVC further stated that its designation "as an ETC will help address the health and safety risks associated with geographic isolation in rural communities." NVC noted that if granted ETC designation, "NVC will be able to offer Lifeline and Link-up programs, to what is anticipated to be a growing number of eligible consumers due to the effects of the economic downturn." No evidence was presented that there were disadvantages to NVC's service offerings. The Commission finds that NVC's facilities improve service quality and customer service and that it has committed to providing high quality service.

The Commission must also consider NVC's ability to provide the supported services throughout the designated service area within a reasonable time frame. As previously noted, NVC has existing facilities-based services in the cities of Redfield and Aberdeen but these facilities do not cover the entire cities of Redfield and Aberdeen, nor do the facilities cover the rural portions of the Redfield and Aberdeen exchanges. NVC plans to continue to build out in the cities of Redfield and Aberdeen. For those parts of the cities where it has not yet built out, NVC will lease wireless service from JWJ and will provide "a fixed-line terminal capable of providing the supported services throughout the customer premises." NVC will provide this same service in the rural areas of the Redfield and Aberdeen exchanges. The Commission finds that NVC has demonstrated that it has the ability to provide the supported services throughout the designated service area within a reasonable time frame.

The next consideration is whether the designation of NVC will have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier. Qwest, as the incumbent local exchange carrier, did not intervene or submit comments in this docket. Qwest is a non-rural carrier that does not receive high cost funds for the exchange of Aberdeen, but does receive funds for the Redfield exchange. The Commission finds that no evidence was presented to show that the designation of NVC as an ETC would have a detrimental effect on the provisioning of universal service by the incumbent local exchange carrier.

NVC also requested that certification be sent to the FCC and the Universal Service Administrative Company (USAC) stating that NVC will use the federal universal service support only

for the provision, maintenance, and upgrading of facilities and services for which the support was intended. The Commission approves this request for certification regarding the use of federal universal service support.

It is therefore

ORDERED, that NVC is designated as an ETC in the Aberdeen and Redfield exchanges; and it is

FURTHER ORDERED, that NVC is eligible to receive federal support as it states it will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended; and it is

FURTHER ORDERED, that the Commission approves NVC's Request for Certification Regarding Its Use of Federal Universal Service Support.

Dated at Pierre, South Dakota, this 3rd day of November, 2009.

<b>CERTIFICATE OF SERVICE</b>
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.
By: <u><i>Delaine Kolbe</i></u>
Date: <u>11/5/09</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*Dustin M. Johnson*  
DUSTIN M. JOHNSON, Chairman

*Steve Kolbeck*  
STEVE KOLBECK, Commissioner

*Gary Hanson*  
GARY HANSON, Commissioner