

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	WC Docket No. 20-11
Northern Valley Communications, LLC)	
Tariff F.C.C. No. 3)	Transmittal No. 12
)	
)	
)	

ORDER DESIGNATING ISSUES FOR INVESTIGATION

Adopted: March 11, 2020

Released: March 11, 2020

Northern Valley Direct Case Due by: April 1, 2020

Oppositions to Direct Case Due by: April 15, 2020

I. INTRODUCTION

1. In this Order, pursuant to our authority under sections 204 and 205 of the Communications Act of 1934, as amended (Act),¹ we designate issues for investigation regarding the lawfulness of tariff revisions filed by Northern Valley Communications, LLC (Northern Valley), a self-identified access-stimulating local exchange carrier (LEC).² We designate for investigation whether the revisions establishing James Valley Cooperative Telephone Company (James Valley) as Northern Valley’s Intermediate Access Provider and providing that Northern Valley accepts financial responsibility only for James Valley’s charges are consistent with the Act, the *Access Arbitrage Order*, and the rules adopted by the Commission therein (Access Stimulation Rules).³

II. BACKGROUND

A. Procedural History and Relevant Precedent

2. When an interexchange carrier (IXC) transmits a long-distance call to a LEC serving the call’s recipient, the IXC must pay access charges to the LEC for completing the call.⁴ Taking advantage of this access charge regime, some LECs have engaged in an arbitrage scheme known as “access

¹ 47 U.S.C. §§ 204, 205.

² See Northern Valley Communications, LLC Tariff F.C.C. No. 3, Transmittal No. 12 (Dec. 27, 2019) (Transmittal No. 12) (available via the Commission’s Electronic Tariff Filing System); Reply of Northern Valley Communications, LLC to Petitions to Reject or to Suspend and Investigate Northern Valley Communications, LLC’s Tariff F.C.C. No. 3, Transmittal No. 12, WC Docket No. 20-11 at 1 (filed Jan. 7, 2020) (Northern Valley Reply).

³ *Updating the Inter-carrier Compensation Regime to Eliminate Access Arbitrage*, WC Docket No. 18-155, Report and Order and Modification of Section 214 Authorizations, 34 FCC Rcd 9035, 9035-36, para. 1 (2019) (*Access Arbitrage Order*), *pets. for review pending sub nom. Great Lakes Commc’ns Corp. et al. v. FCC*, No. 19-1233 (D.C. Cir. filed Oct. 29, 2019) (Northern Valley is one of the appellants); see also 47 CFR § 61.3(ccc) (defining “Intermediate Access Provider” as any entity that carries or processes traffic at any point between the final Interexchange Carrier in a call path and a local exchange carrier engaged in Access Stimulation).

⁴ *All Am. Tel. Co., Inc. v. FCC*, 867 F.3d 81, 85 (D.C. Cir. 2017).

stimulation” or “traffic pumping,” whereby they “artificially increase their access charge revenues” by stimulating “terminating call volumes through arrangements with entities that offer high-volume calling services.”⁵ High volume calling services provide teleconferencing or other services that are free to users of those services but are funded through excessive access charges paid by IXCs and their customers.⁶ In adopting the *Access Arbitrage Order* last September, the Commission explained that access stimulation was harming IXCs—and, by extension, their customers—by inflating long-distance rates, causing service disruptions, and distorting competition.⁷

3. To eliminate the financial incentive of access-stimulating LECs to engage in regulatory arbitrage, the Commission adopted the Access Stimulation Rules making “access-stimulating LECs—rather than IXCs—financially responsible for the tandem switching and transport service access charges associated with the delivery of traffic from an IXC to the access-stimulating LEC end office or its functional equivalent.”⁸ The Access Stimulation Rules require access-stimulating LECs to designate “the Intermediate Access Provider(s) that will provide terminating switched access tandem switching and terminating switched access tandem transport services to the local exchange carrier,” and they require the access-stimulating LEC to “assume financial responsibility for any applicable Intermediate Access Provider’s charges for such services.”⁹ Those rules became effective on January 11, 2020.¹⁰

4. In adopting these rules, the Commission explained that “reversing the financial responsibility for both transport and tandem switching charges” from IXCs to access-stimulating LECs was the most effective approach to eliminating access arbitrage.¹¹ The Commission considered but rejected a proposal that would have allowed an access-stimulating LEC to avoid paying for tandem switching and tandem switched transport if the LEC accepted direct connections from IXCs or from an Intermediate Access Provider of the IXC’s choice.¹² The Commission concluded that this approach would not be effective because it “could allow access-stimulating LECs to *avoid financial responsibility* by operating in remote locations where direct connections would be prohibitively expensive or infeasible.”¹³

5. Northern Valley is an access-stimulating competitive LEC in South Dakota.¹⁴ Before January 11, 2020, if an IXC had traffic bound for Northern Valley, the IXC delivered that traffic to a

⁵ *Access Arbitrage Order*, 34 FCC Rcd at 9035-36, para. 1; *see also* 47 CFR § 61.3(bbb) (defining “access stimulation”).

⁶ *See Access Arbitrage Order*, 34 FCC Rcd at 9036, para. 2.

⁷ *Id.* at 9036, 9045-46, 9048-49, paras. 3, 25, 33.

⁸ *Id.* at 9036-37, para. 4.

⁹ 47 CFR § 51.914(a)(2); *id.* § 51.914(a)(1) (“[I]f a local exchange carrier is engaged in Access Stimulation . . . it shall . . . [n]ot bill any Interexchange Carrier for terminating switched access tandem switching or terminating switched access transport charges for any traffic between such local exchange carrier’s terminating end office or equivalent and the associated access tandem switch.”). The Access Stimulation Rules require LECs to self-identify as access stimulators, and to notify the Commission, as well as Intermediate Access Providers and IXCs, that they have assumed financial responsibility for terminating tandem switching and transport charges, and to also provide notification if they cease engaging in access stimulation. 47 CFR §§ 51.914(b), (c) and (e).

¹⁰ *See* 84 Fed. Reg. 57629 (Oct. 28, 2019) (announcing November 27, 2019 as the effective date of the *Access Arbitrage Order*). Sections 51.914(a) and (b) became effective 45 days later, on January 11, 2020. *See* 47 CFR §§ 51.914 (a)-(b).

¹¹ *Access Arbitrage Order*, 34 FCC Rcd at 9050, 9067, paras. 37, 73.

¹² *Id.* at 9051, para. 40 (citation omitted).

¹³ *Id.* (emphasis added).

¹⁴ Northern Valley Reply at 1.

tandem switch operated by South Dakota Network (SDN) in Sioux Falls, South Dakota, and the traffic was then delivered to Northern Valley.¹⁵ On December 27, 2019, Northern Valley filed Transmittal No. 12, proposing revisions to its interstate access service Tariff F.C.C. No. 3 designating its affiliate, James Valley, as its new Intermediate Access Provider (tandem provider) for receiving calls from IXCs, effective January 11, 2020.¹⁶ Northern Valley intends “to acquire and pay for” the tandem switching and transport services provided by James Valley.¹⁷ The tariff revisions also limit Northern Valley’s financial responsibility to cover only the charges between James Valley’s access tandem switch in Groton, South Dakota, and Northern Valley’s terminating end office.¹⁸

6. Verizon Communications (Verizon) and Sprint Communications Company L.P. (Sprint) (collectively, Petitioners) each filed a petition (collectively, Petitions) asking the Commission to reject or to suspend and investigate Northern Valley’s proposed tariff revisions.¹⁹ Northern Valley filed a reply to the Petitions requesting that the Petitions be denied.²⁰

7. We concluded that substantial questions of lawfulness existed regarding Northern Valley’s proposed tariff revisions. Pursuant to section 204 of the Act, we suspended the proposed tariff revisions and set for investigation the question of whether Northern Valley’s proposed tariff revisions comply with the Act, the *Access Arbitrage Order*, and the Commission’s Access Stimulation Rules.²¹ In initiating this investigation, we advanced the effective date of Northern Valley’s proposed tariff revisions to January 10, 2020, suspended the proposed revisions for one day, and imposed an accounting order on Northern Valley.²² Northern Valley submitted a supplemental tariff filing pursuant to the *Suspension Order* reflecting the suspension.²³

B. Commission Authority and Duty to Investigate Tariffs

8. Section 204 of the Act provides that, if a tariff filing has been suspended, the burden of proof is on the tariffing carrier to show that the filing is just and reasonable.²⁴ Northern Valley must provide the information requested in this Order pursuant to section 204(a)(1) of the Act so the

¹⁵ *Id.* at 1, 3; *see also* Verizon Petition to Reject or, in the Alternative, Suspend and Investigate, WC Docket No. 20-11 at 1-3 (filed Jan. 3, 2020) (Verizon Petition).

¹⁶ *See* Transmittal No. 12, 1st Revised Page No. 46.1, § 7.2.2, Note 4.

¹⁷ Northern Valley Reply at 2.

¹⁸ Transmittal No. 12, 1st Revised Page No. 46.1, § 7.2.2, Note 4.

¹⁹ Verizon Petition; Petition of Sprint to Reject or to Suspend and Investigate Northern Valley Communications, LLC’s Tariff, WC Docket No. 20-11 (filed Jan. 3, 2020) (Sprint Petition).

²⁰ Northern Valley Reply.

²¹ *See Northern Valley Communications, LLC, Tariff F.C.C. No. 3*, WC Docket No. 20-11, Transmittal No. 12, Order, DA 20-40, at 1-2, paras. 1, 5 (WCB Jan. 10, 2020) (*Suspension Order*).

²² *Suspension Order* at 3 paras. 6, 8, 10. When proposed tariff revisions are advanced for a day, the effective date listed in the proposed revisions is moved to one day earlier so that suspension of the proposed revisions can occur on that day, thereby allowing the proposed revisions to become effective on the original effective date but not to be deemed lawful. 47 U.S.C. § 204(a)(3).

²³ Letter from Steve Gatto, Authorized Representative for Northern Valley Communications, LLC, to Marlene Dortch, Secretary, FCC, Transmittal No. 13, WC Docket No. 20-11 (filed Jan. 17, 2020). *See* 47 CFR § 61.191.

²⁴ *See* 47 U.S.C. § 204(a)(1) (“At any hearing involving a new or revised charge, or a proposed new or revised charge, the burden of proof to show that the new or revised charge, or proposed charge, is just and reasonable shall be upon the carrier . . .”). Northern Valley’s tariff filing revises how access-stimulation traffic will be terminated to it and which entity will be charged for that service.

Commission can determine whether Northern Valley's tariff revisions are just and reasonable.²⁵ At the conclusion of an investigation under section 204, the Commission may, pursuant to section 205, "determine and prescribe what will be the just and reasonable charge or the maximum or minimum charge or charges to be thereafter observed, and what classification, regulation, or practice is or will be just, fair, and reasonable, to be thereafter followed."²⁶

III. ISSUES DESIGNATED FOR INVESTIGATION

9. To allow the Commission to determine the propriety of these tariff revisions, we must first understand how calls are and will be routed to Northern Valley for completion. We must also establish how Northern Valley's tariff revisions will affect the routing of those calls and the financial responsibility for any applicable tandem switching and transport charges. In its Direct Case, Northern Valley must confirm or deny, correct and fully explain each of the statements and answer each of the questions below. We further direct Northern Valley to identify the individual(s) in the company most knowledgeable about each of the issues designated below.

A. Factual Questions Related to the Tariff Revisions

10. Northern Valley's tariff changes "designated the James Valley Cooperative Telephone Company as its Intermediate Access Provider for terminating Feature Group D Interexchange traffic pursuant to 47 C.F.R. § 51.915(b)(2)" and announced that Northern Valley "shall assume financial responsibility only for the designated Intermediate Access Provider's charges for terminating Feature Group D Interexchange traffic between the James Valley access tandem switch and Northern Valley's terminating end office."²⁷ Northern Valley has historically used SDN, a tandem provider, as its Intermediate Access Provider and thus its point of connection with IXCs for calls terminating to Northern Valley's switches in Redfield and Aberdeen, South Dakota.²⁸

11. Prior to Northern Valley's tariff and call-routing changes, Verizon asserts that access-stimulation calls bound for Northern Valley's end office followed this path: IXCs delivered the calls to the SDN tandem switch in Sioux Falls, South Dakota, from there the traffic was transported to a Northern Valley host office in Groton, South Dakota, and then to Northern Valley's remote switch in Redfield, South Dakota.²⁹ Petitioners assert that Northern Valley's tariff revisions require IXCs to bear the costs of delivering calls to James Valley's tandem switch, which is 128 miles from the SDN tandem where IXCs delivered traffic bound for Northern Valley before Northern Valley designated James Valley as its Intermediate Access Provider.³⁰ Northern Valley should confirm that these are accurate representations of how traffic flowed prior to the tariff revisions and after the tariff revisions or identify and explain any inaccuracies. Northern Valley should explain what services it provided to IXCs and charged them for prior to Northern Valley's tariff revisions. Northern Valley must also provide relevant routing diagrams for calls it completed prior to January 11, 2020 and for those that it currently completes. Are there any other, regulated or non-regulated, routes an IXC can use to get long distance traffic to Northern Valley?

²⁵ *Id.*

²⁶ *Id.* § 205(a).

²⁷ Transmittal No. 12, 1st Revised Page No. 46.1, § 7.2.2, Note 4.

²⁸ Verizon Petition at 3; Sprint Petition at 3.

²⁹ *See* Verizon Petition at 1-2.

³⁰ *See* Sprint Petition at 3-4; Verizon Petition at 1 ("SDN has billed IXCs for tandem switching, and Northern Valley has billed IXCs for approximately 190 miles of transport from Sioux Falls to Northern Valley's switch in Redfield."). Verizon Petition at 1-2 (Northern Valley "has treated its Redfield switch as a remote office subtending a host office in Groton, South Dakota, and has thus billed separately for the Sioux Falls to Groton and the Groton to Redfield legs of the route."). Verizon also asserts that this routing inflates the transport charges because the shorter direct (airline mileage) route is from Sioux Falls to Redfield. Verizon Petition at 2.

If so, Northern Valley must describe those routes and explain how each of the entities on those routes are compensated for carrying traffic to Northern Valley. If IXCs use routes other than through the James Valley tandem, would Northern Valley accept such traffic and terminate those calls? How does Northern Valley expect carriers to get traffic to the James Valley tandem? Through SDN? Through other regulated, or unregulated, paths?

12. Northern Valley must also submit information explaining what kind of tandem switch James Valley has deployed, its capacity, and how and why Northern Valley selected James Valley as its Intermediate Access Provider. Northern Valley must also submit information identifying any carriers that were directly connected to James Valley before the tariff revisions became effective and any carriers that are or have been directly connected to James Valley since January 11, 2020.

13. Access stimulation creates artificially high levels of demand in rural areas, such as those served by Northern Valley.³¹ We are concerned that James Valley's network facilities may be insufficient to handle these excessive traffic volumes.³² Accordingly, we seek information from Northern Valley detailing how it ensures that service problems, including dropped and blocked calls, are not occurring—and will not occur—as a result of the call routing changes reflected in its tariff revisions. Northern Valley must provide detailed data and information on any calls dropped or blocked by James Valley and on any complaints it has received related to the tariff revisions under investigation. This information shall include, at a minimum: (1) the date of any complaint; (2) a summary of the complaint; and (3) Northern Valley's response to the complaint.

14. Northern Valley must also submit information quantifying the volume of traffic it received for each of the six months prior to January 2020 and its traffic forecasts for each month from January 2020 to June 2020. It must submit any analyses it performed to ensure that the James Valley tandem could adequately serve the anticipated call volumes. Northern Valley must further provide the economic justification for its decision to move its tandem switch connection to James Valley, including any cost or traffic studies, as well as any network engineering analyses, on which Northern Valley based its decision. Northern Valley must provide engineering and financial information describing its connections with James Valley, including the pricing, terms, and conditions of service in its agreements with James Valley. Sprint asserts that, because Northern Valley and James Valley are affiliated, “there are effectively no tandem switching or tandem transport charges, so no expense to the access stimulating LEC.”³³ Is this correct and, if not, why not?

15. On December 13, 2019, shortly before filing its tariff revisions, Northern Valley entered a change in the Business Integrated Routing and Rating Database System to indicate in the Local Exchange Routing Guide (LERG) that it would no longer connect to the SDN tandem switch for delivery of its traffic and would instead use the James Valley tandem.³⁴ On December 20, 2019, Northern Valley provided written notice to IXCs that it “anticipates disconnecting the SDN terminating tandem circuits” after its new connection arrangement has taken effect and “carriers have had a reasonable opportunity to

³¹ See *Access Arbitrage Order*, 34 FCC Rcd at 9041, para. 15 (“twice as many minutes were being routed per month to Redfield, South Dakota (with its population of approximately 2,300 people and its 1 end office) as is routed to all of Verizon’s facilities in New York City (with its population of approximately 8,500,000 people and its 90 end offices)”) (emphasis in original) (citation omitted).

³² See *id.* at 9036, para. 3 (“[T]here is evidence that the staggering volume of minutes generated by these [access arbitrage] schemes can result in call blocking and dropped calls.”).

³³ Sprint Petition at 4.

³⁴ Northern Valley Reply at 1-3.

transition their traffic” to prevent the disruption of services.³⁵ Northern Valley explained that “[t]his network change will affect the way Northern Valley receives traffic from [IXCs] so it is imperative that [IXCs] contact Northern Valley’s Network Operations . . . immediately if [IXCs] . . . would like to establish direct trunks to the new tandem.”³⁶ What is the volume of traffic that has had to be rerouted to effectuate Northern Valley’s tariff revisions? How does a 22-day notice period (December 20, 2019 to January 11, 2020) for IXCs to complete necessary network upgrades compare to standard industry practice for transitioning the routing of this volume of calls?

16. Northern Valley must explain under what legal authority it acted to unilaterally change its point of interconnection, all of the factors that entered into its decision to change its designated tandem provider from SDN to James Valley, and how Northern Valley’s actions compare to the general industry norms and standards for changing tandem providers or points of interconnection. Northern Valley must also explain how notice of such a change is implemented in the industry and why Northern Valley believes it may unilaterally establish its interconnection point via tariff or changes to the LERG instead of negotiating new agreements with affected carriers.

17. In its Direct Case, Northern Valley must explain whether it is still accepting IXC traffic routed through SDN, either directly or indirectly. Does Northern Valley maintain a direct connection between its switch and SDN? Alternatively, does James Valley maintain a direct connection between its switch and SDN? Can an IXC route traffic through SDN to either James Valley or Northern Valley (directly or indirectly)? If so, does Northern Valley pay for any of the traffic routed through SDN? If Northern Valley does pay for such traffic, it must identify the rates it is paying SDN and the SDN tariff provisions governing those rates. And if Northern Valley does still accept IXC traffic routed through SDN’s tandem, Northern Valley must explain and justify how such routing is consistent with its new tariff provisions.

18. Northern Valley must submit any interconnection agreement it has with James Valley as well as any other interconnection agreements Northern Valley is a party to (for direct or indirect interconnection). Northern Valley must also provide information regarding any other commercial agreements with James Valley or any other entity which it relies on to receive traffic bound for either Northern Valley or for James Valley’s tandem switch. In addition, Northern Valley must provide all information related to any revenue-sharing agreements it is a party to, including similar financial arrangements, whether with an affiliated or non-affiliated entity.³⁷

B. Compliance with the Communications Act, the *Access Arbitrage Order*, and the *Access Stimulation Rules*

19. We designate for investigation under sections 204 and 205 of the Act whether Northern Valley’s tariff revisions designating James Valley as its tandem provider and necessitating Northern Valley’s connection to a new tandem that is apparently not directly connected to IXCs, are lawful under sections 201 or 202 of the Act.³⁸ We also designate for investigation whether Northern Valley’s tariff revisions comply with the *Access Arbitrage Order* and the *Access Stimulation Rules*.³⁹

³⁵ Sprint Petition at Attach. A, Letter from James Groft, CEO, Northern Valley, titled “Northern Valley Communications, LLC–Tandem Rehome, Immediate Attention Required” (providing a contact person for “establish[ing] direct trunks to the new tandem”) (Northern Valley Notice Letter); Northern Valley Reply at 2.

³⁶ Northern Valley Notice Letter.

³⁷ See 47 CFR § 61.3(bbb)(1)(i)(A).

³⁸ 47 U.S.C. § 201(b) (which requires that “[a]ll . . . practices . . . in connection with such communications service, shall be just and reasonable, and any such . . . practice . . . that is unjust or unreasonable is hereby declared unlawful.”). 47 U.S.C. § 202(a) (making it “unlawful for any common carrier to make any unjust or unreasonable discrimination in . . . practices . . . for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person

20. The Commission found that requiring IXCs to pay the tandem switching and tandem switched transport access charges for terminating access-stimulation traffic is an unjust and unreasonable practice under section 201(b) of the Act.⁴⁰ As a result, the Commission required any access-stimulating LEC “to bear financial responsibility for *all* interstate and intrastate tandem switching and transport charges for terminating traffic to its own end office(s) or functional equivalent whether terminated directly or indirectly.”⁴¹ It appears that, under the tariff revisions, Northern Valley expects IXCs to bear the costs of delivering to James Valley traffic bound for Northern Valley. In its Direct Case, Northern Valley must justify why its decision to name a single tandem, affiliated with Northern Valley, apparently not directly connected to the IXCs, and located a significant distance from its previous tandem connection point is not an unjust or unreasonable practice.

21. The Commission’s Access Stimulation Rules, implementing the just and reasonable framework of section 201(b), “advance policies in sections 251, 254, and 256 of the Act,” including promoting efficient marketplace behavior and avoiding implicit subsidies.⁴² Section 256, for example, “promote[s] nondiscriminatory accessibility by the broadest number of users and vendors of communications products and services . . . through . . . coordinated public telecommunications network planning and design.”⁴³ In its Direct Case, Northern Valley must explain how its designation of, and connection to, the James Valley tandem switch and possible disconnection from the SDN tandem switch, including its coordination with other providers responsible for delivering calls to Northern Valley to prevent service disruptions, comply with these requirements.

22. In its Direct Case, Northern Valley must also explain how limiting its financial responsibility to only James Valley’s charges is consistent with the Commission’s decision “reversing the financial responsibility for paying tandem switching and transport, from IXCs to access-stimulating LECs.”⁴⁴ Northern Valley must explain how its tariff revisions are consistent with the Commission’s express intent in the *Access Arbitrage Order* “to encourage terminating LECs to make efficient choices” by making access-stimulating LECs accountable for the cost implications of their routing decisions.⁴⁵ If IXCs can route traffic to Northern Valley through Intermediate Access Providers other than James Valley, then Northern Valley must explain and justify which carrier(s) would be financially responsible for the tandem transport and switching charges incurred in connection with such traffic. For example, if Northern Valley interprets its tariff revisions as requiring IXCs to pay any SDN tandem switching and transport charges if IXCs use the SDN tandem to route calls to Northern Valley, Northern Valley must describe how that requirement is consistent with the *Access Arbitrage Order*.

23. We also designate for investigation whether Northern Valley’s tariff revisions are consistent with the Commission’s Access Stimulation Rules. Although Northern Valley claims that it revised its tariff “to support 47 C.F.R. § 51.914 with regards to Access Stimulation,”⁴⁶ Northern Valley must explain how its tariff revisions limiting its financial responsibility to only the James Valley

(Continued from previous page) _____

. . . or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage.”).

³⁹ See 47 U.S.C. §§ 201, 202; see generally *Access Arbitrage Order*.

⁴⁰ *Access Arbitrage Order*, 34 FCC Rcd at 9073-74, para. 92.

⁴¹ *Id.* at 9042, para. 17 (emphasis added).

⁴² *Id.* at 9076, para. 99 (citing 47 U.S.C. §§ 201(b), 251, 254, 256).

⁴³ See 47 U.S.C. § 256(a)(1)(A).

⁴⁴ See *Access Arbitrage Order*, 34 FCC Rcd at 9067, para. 73.

⁴⁵ See, e.g., *id.* at 9052, 9074, paras. 41, 93-94.

⁴⁶ Transmittal No. 12.

Intermediate Access Provider to the exclusion of financial responsibility for other Intermediate Access Providers is consistent with that provision.

24. The Commission's rules require an access-stimulating LEC to remove tandem switching and transport charges from its tariff and to "notify in writing the Commission, all Intermediate Access Providers that it subtends, and Interexchange Carriers with which it does business" that the access-stimulating LEC will be responsible for paying those charges.⁴⁷ The record indicates that Northern Valley notified IXCs of the tandem change.⁴⁸ Was any other notice provided to any other individuals or entities? For example, did Northern Valley send a similar notice to affected Intermediate Access Providers (SDN, James Valley, or others)? If Northern Valley provided notice to affected IXCs why didn't it also provide similar notice to the Commission?⁴⁹ Northern Valley must explain why it included language in its tariff that served the same purpose as its earlier notice letter to IXCs – namely, providing notice of the designation of an Intermediate Access Provider and assumption of financial responsibility. What is Northern Valley's reasoning for also including this information in its tariff? What is Northern Valley's legal basis for using its tariff as the vehicle to provide the required notification? What does Northern Valley believe is the legal significance of identifying James Valley as its tandem provider?

IV. PROCEDURAL MATTERS

25. *Filing Schedules.* This investigation is designated WC Docket No. 20-11. Northern Valley Communications, LLC (Northern Valley) is designated as a party to this investigation of the listed tariff filing.

26. Northern Valley shall file its Direct Case no later than **April 1, 2020**. The Direct Case must present Northern Valley's position with respect to the issues described in this Order. Pleadings responding to the Direct Case may be filed no later than **April 15, 2020**, and must be captioned "Oppositions to Direct Case" or "Comments on Direct Case." Additional pleadings will not be permitted or considered,⁵⁰ but *ex parte* presentations will be accepted until **May 28, 2020**.⁵¹

- Electronic Filers: Direct cases and other pleadings may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Paper filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. All envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

⁴⁷ 47 CFR § 51.914(a)-(b).

⁴⁸ Northern Valley Notice Letter.

⁴⁹ See *Access Arbitrage Order*, 34 FCC Rcd at 9068, para. 75.

⁵⁰ 47 CFR § 1.1200(a).

⁵¹ This date is necessary to give the Commission adequate time to evaluate the complete record prior to the statutory deadline of June 11, 2020.

- People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

27. *Requirements for Filing of Spreadsheets.* All spreadsheets filed in this proceeding must be fully-operational and manipulatable and must be submitted in native Microsoft Excel electronic format. All spreadsheet cells that contain entries that are references to or calculations based on other spreadsheet cells must include the formula for such reference or calculation. This includes references and calculations based on entries in different worksheets within the same workbook file.

28. *Ex Parte Requirements.* This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁵² Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

29. *Paperwork Reduction Act.* This Order designating issues for investigation does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 47 U.S.C. § 3506(c)(4).

30. *Contact Person.* For further information about this proceeding, please contact Lynne Engledow, Wireline Competition Bureau, Pricing Policy Division, 445 12th Street, S.W., Washington, D.C. 20554, (202) 418-2350, lynne.engledow@fcc.gov.

V. ORDERING CLAUSES

31. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 4(i), 4(j), 201(b), 202(a), 203(c), 204(a), 205, 256 and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201(b), 202(a), 203(c), 204(a), 205, 256, and 403, and sections 0.91, 0.291 and 51.914 of the Commission’s rules, 47 CFR §§ 0.91, 0.291, 51.914, the issues set forth in this Order ARE DESIGNATED FOR INVESTIGATION.

32. IT IS FURTHER ORDERED that Northern Valley Communications, LLC IS a party to this proceeding.

33. IT IS FURTHER ORDERED that Northern Valley Communications, LLC SHALL INCLUDE, in its Direct Case, a response to each request for information that it is required to answer by

⁵² 47 CFR §§ 1.1200 *et seq.*

this Order.

FEDERAL COMMUNICATIONS COMMISSION

Gil M. Strobel
Chief, Pricing Policy Division
Wireline Competition Bureau