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Local Carriers Want To Toss Verizon, Sprint Overbilling MDL

By **Michael Macagnone**

Law360, Washington (May 4, 2015, 7:16 PM ET) -- A group of local exchange carriers urged a Texas federal judge Friday to toss Sprint Communications Co. and Verizon Communications Inc. suits alleging overbilling for wireless callers accessing local telephone exchanges.

The group, which includes 79 local exchange carriers that are commonly owned and commonly managed subsidiaries of CenturyLink Inc., said the two communications giants are misinterpreting Federal Communications Commission rulings and state and federal laws to try and strong-arm smaller companies for free services.

“Plaintiffs are attempting to use these lawsuits to obtain hundreds of millions of dollars of services for free,” the motion said.

The dismissal motion said the two companies have regularly paid tariffed access fees for all calls routed long distance to the local exchanges, as per federal regulation. However, CenturyLink said the companies now have a problem with paying those tariffs for calls from cellphones in the same area routed as long distance calls by the wireless carriers.

“Last year, for the first time, plaintiffs declared that these industry-standard, tariffed access charges were ‘illegal,’ and have been illegal since 1996,” CenturyLink said.

CenturyLink said the two companies have had no problems paying the access fees for cellphone calls routed as long distance calls within the same area — called a major trading area — for the last 18 years. Indeed, the motion alleged both companies, through local exchanges they own, have been charging the same tariffs over the same period of time.

“If the law is ‘clear’ that the charges are illegal, as plaintiffs claim, they cannot justify paying these same ‘illegal’ charges for over 18 years,” the motion said.

The plaintiffs contend the tariff rates the long-distance carriers pay to connect calls to the local exchanges are illegal when levied against them for wireless calls within the same major trading area, according to court documents.

Sprint and Verizon have contended, in various suits, that they should be able to claim refunds on those tariffs and not have to pay them in the future for those calls.

However, in the CenturyLink motion, the local carriers argue that calls routed as long distance calls require the tariff, regardless of the origin.

The MDL, which now includes more than 65 separate cases, was consolidated in December, over the objections of Sprint and some of the non-CentruyLink local exchange carriers. U.S. District Judge Sidney A Fitzwater supervises the MDL, and most of the instant cases were filed last year.

Counsel for the defendants declined comment. Representatives of Verizon and Sprint could not be immediately reached for comment.

Counsel information for the plaintiffs was not immediately available.

The defendants are represented by teams from Cooley LLP, Lynn Tillotson Pinker & Cox LLP, Davis Wright Tremaine LLP, Kutak Rock LLP, Mayer Brown LLP, Latham & Watkins LLP, Morgan Lewis & Bockius LLP, McGinnis Lochridge & Kilgore LLP and Pringle & Herigstad PC.

The case is In re: IntraMTA Switched Access Charges Litigation, MDL number 2587, in the U.S. Judicial Panel on Multidistrict Litigation.

--Editing by Kelly Duncan.
