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FEDERAL DISTRICT COURT DISMISSES CLAIMS BY SPRINT AND VERIZON REGARDING INTRAMTA WIRELESS RULE RELATING TO ACCESS CHARGES

On November 17, 2015, a Federal District Court dismissed Sprint and Verizon's claims that Local Exchange Carriers ("LECs") are unlawfully charging them IXC access charges for IntraMTA wireless calls that originate and terminate in the same MTA. The Court reached its decision by determining that the Federal Communications Commission ("FCC") has not explicitly superseded the baseline compensation practices for access services established prior to the Federal Telecommunications Act of 1996 and that other court decisions cited by Sprint and Verizon did not specifically address this issue. Moreover, the Court declined a referral of the issue to the FCC based on primary jurisdiction because it found that there was no substantial issue for the FCC to decide.

The Court held that it is lawful under federal law for LECs to charge IXCs access fees for access services that LECs provide to enable the IXCs to exchange IntraMTA wireless calls. Therefore, the IXCs are required to pay the access charges specified in the LECs' tariffs filed with the FCC pursuant to the Filed Rate Doctrine. However, the Court allowed Sprint and Verizon 28 days to refile state-law claims because some state tariffs, unlike the federal tariffs, might contain language prohibiting access charges for IntraMTA calls.

What Happens Now?

The Federal District Court's decision to dismiss the Sprint and Verizon claims is good news and it is an important first step to resolve this issue favorably for LECs. However, it's too early to know whether the dispute over this issue has been finally resolved with this Court decision. It remains to be seen whether any state-law claims will be refiled with the Court or whether a rehearing or an appeal to a Circuit Court of Appeals will be filed by Sprint or Verizon. If an appeal is filed, it may be a year or more before a decision by the Court of Appeals may be released.

Meanwhile, a Petition for Declaratory Ruling Regarding the Applicability of the IntraMTA Rule to LEC-IXC Traffic is still currently pending before the FCC. We'll likely have to ultimately wait for a decision by the FCC to see what affect the IntraMTA Rule may have on LEC-IXC Traffic, and whether the FCC's decision will apply to current access charges or on a forward-going basis only.

If you have any questions regarding this issue, please contact your GPNW consultant or Steve Gatto at 830-895-7226 or sgatto@gpnw.com.