

## Affiliate Accuses Sprint And T-Mobile Of 'Abusive Treatment'

By **Julia Arciga**

Law360 (August 4, 2020, 7:09 PM EDT) -- A South Dakota municipal utility on Monday accused Sprint and T-Mobile of "unlawful and abusive treatment" after the two telecommunications companies merged this year, claiming Sprint has ignored its contractual obligations from its affiliation agreement with them.

Brookings Municipal Utilities, which has provided consumers with Sprint wireless coverage as an affiliate since 1998, accused Sprint of neglecting stipulations from their affiliation agreement that outlines a process to follow if the telecom company ever merged with another. In April, **Sprint and T-Mobile closed** their \$56 billion merger.

"Since the announcement of its merger with T-Mobile, Sprint has largely disregarded its contractual obligations to BMU, and it has undertaken and begun to execute a deliberate plan and series of actions that are harmful to BMU," the complaint said.

BMU says Sprint did not negotiate a potential continuation of their affiliation in good faith, as the agreement stipulates. Instead, executives at T-Mobile allegedly told BMU two weeks after the merger closed that it did not "have any interest in continuing to be affiliated with BMU." Since then, the municipal utility says there has been "no serious good faith negotiation" with representatives at T-Mobile.

The utility accuses Sprint of diverting its customers to competing products and services offered by T-Mobile after the merger, by "blurring the line" between Sprint and T-Mobile services to customers and advertising new T-Mobile services to Sprint customers. In addition, T-Mobile will allegedly start supporting legacy Sprint customers starting Aug. 5 "without any restrictions."

The alleged actions of the companies would put T-Mobile products "in direct competition" with BMU's offerings, which could "severely harm" and "ultimately destroy BMU's wireless business," the utility said.

Their actions, according to the utility, also reduces BMU's ability to recoup the \$8 million it invested to upgrade its wireless network to provide 4G LTE services.

"Sprint's merger with T-Mobile may have incentivized Sprint to divert BMU's customers to products and services offered by T-Mobile, and to deprive BMU of critical services, but the merger has not altered Sprint's legal and contractual obligation to refrain from taking such actions," the filing said.

In addition to the alleged affiliation agreement violations stemming from the Sprint-T-Mobile deal, BMU seeks relief for other agreement breaches that it says Sprint committed prior to the April merger — such as failing to pay \$1 million in service revenues, overcharging the utility millions in customer service-related fees and delaying BMU's 4G rollout.

Sprint made no effort to rectify or discuss these earlier violations in the years before the merger or after the merger occurred, which the municipal utility claims was mandated by the agreement.

BMU accuses both Sprint and T-Mobile of breach of contract and breach of implied covenant of good faith and fair dealing. The utility specifically accuses T-Mobile of tortious interference with business relations and asks for a full accounting and audit of Sprint's records related to the company's relationship with BMU.

On top of the accounting audit, BMU asks the court to make both T-Mobile and Sprint negotiate in

good faith and block the telecom companies from taking action that would harm BMU during the case's proceedings. The utility is also seeking damages.

Representatives for T-Mobile declined to comment Tuesday. Counsel for BMU did not immediately respond to requests for comment.

BMU is represented by Scott N. Heidepriem, Matthew A. Tysdal and Pete Heidepriem of Heidepriem Purtell Siegel & Hinrichs LLP and Ari S. Casper, Ralph S. Tyler and Joshua N. Auerbach of The Casper Firm LLC.

Counsel information for Sprint and T-Mobile was not immediately available.

The case is Brookings Municipal Utilities v. T-Mobile US Inc. et al., case number 4:20-cv-04113, in the U.S. District Court for the District of South Dakota.

--Additional reporting by Matthew Perlman. Editing by Orlando Lorenzo.

*Update: This article has been updated with comment from T-Mobile.*