

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

<p>SPRINT COMMUNICATIONS COMPANY, L.P.,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>ALLIANCE COMMUNICATIONS COOPERATIVE, INC., RC COMMUNICATIONS, INC., VENTURE COMMUNICATIONS COOPERATIVE, WESTERN TELEPHONE COMPANY, GOLDEN WEST TELECOMMUNICATIONS COOPERATIVE, INC., JAMES VALLEY COOPERATIVE TELEPHONE COMPANY, TRIOTEL COMMUNICATIONS, INC., MIDSTATE COMMUNICATIONS, INC., SANTEL COMMUNICATIONS COOPERATIVE, INC., VALLEY TELECOMMUNICATIONS COOPERATIVE ASSOCIATION, INC., and WEST RIVER COOPERATIVE TELEPHONE COMPANY,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: right;">4:14-CV-04099-KES</p> <p style="text-align: center;">ORDER DENYING DEFENDANTS' MOTION TO DISMISS</p>
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Defendants Alliance Communications Cooperative, Inc., RC
Communications Inc., Venture Communications Cooperative, and Western
Telephone Company move to dismiss plaintiff Sprint Communications
Company, L.P.'s complaint on the basis that the complaint fails to state a claim

upon which relief can be granted.¹ Docket 10; *see* Fed. R. Civ. P. 12(b)(6). Alternatively, defendants move this court to stay the action or refer the controlling legal issues to the Federal Communications Commission for resolution.

On June 27, 2014, Sprint filed a civil action alleging defendants improperly billed Sprint for switched access charges. Docket 1. Defendants' motion to dismiss was filed on August 15, 2014. Sprint sought leave to amend its complaint on January 7, 2015, and the motion was granted on January 27. Docket 25. Sprint filed its first amended complaint on February 2, 2015. Docket 26.

Because the motion to dismiss was filed prior to and does not address Sprint's first amended complaint, the motion to dismiss is rendered moot. *See Pure Country, Inc. v. Sigma Chi Fraternity*, 312 F.3d 952, 956 (8th Cir.2002) ("If anything [plaintiff's] motion to amend the complaint rendered moot [defendant's] motion to dismiss the original complaint." (citation omitted)); *see also Onyiah v. St. Cloud State Univ.*, 655 F. Supp. 2d 948, 958 (D. Minn. 2009) ("[A]s a general proposition, if a defendant files a Motion to Dismiss, and the plaintiff later files an Amended Complaint, the amended pleading renders the defendant's Motion to Dismiss moot." (citations omitted)). Defendants' motion

¹ The other defendants appearing in the caption were named as parties to this dispute in Sprint's amended complaint. *See* Docket 26.

to stay or transfer is also denied as moot because the motion to dismiss has been denied. Accordingly, it is

ORDERED that defendants' motion to dismiss the complaint (Docket 10) is denied as moot and without prejudice.

IT IS FURTHER ORDERED that defendants' motion to stay or transfer (Docket 10) is denied as moot and without prejudice.

Dated March 4, 2015.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER

UNITED STATES DISTRICT JUDGE