

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SPRINT COMMUNICATIONS COMPANY)
L.P.,)
)
Plaintiff,)
)
v.)
BIG RIVER TELEPHONE COMPANY, LLC,)
)
Defendant.)

Case No. 08-2046-JWL

ORDER

This case comes before the undersigned U.S. Magistrate Judge, James P. O’Hara, on Big River’s motion (**doc. 201**) for reconsideration of the court’s June 12, 2009, order (doc. 184) granting Sprint’s motion to compel Big River to produce documents related to technical aspects of Big River’s voice-over-internet protocol (“VoIP”) telephony system (doc. 75) and granting in part and denying in part Sprint’s motion for costs and attorney fees incurred in bringing the motion to compel (doc. 157).

D. Kan. Rule 7.3 provides, in pertinent part:

A party may file a motion asking a judge or magistrate judge to reconsider an order or decision made by that judge or magistrate judge. . . . A motion to reconsider shall be based on (1) an intervening change in controlling law, (2) the availability of new evidence, or (3) the need to correct clear error or prevent manifest injustice.

In this instance, Big River raises the third factor, the need to correct clear error or prevent manifest injustice. Whether to grant or deny a motion for reconsideration is committed to

the court's discretion.¹ A motion to reconsider gives the court the opportunity to correct manifest errors of law² and is appropriate if the court has obviously misapprehended a party's position, the facts, or the applicable law.³ But a motion to reconsider "is not a second chance for the losing party to make its strongest case or to dress up arguments that previously failed."⁴

The court has reviewed its June 12, 2009, order in light of the arguments presented by Big River in support of reconsideration. The court finds that it did not misapprehend Big River's position, the facts, or the applicable law, and the court remains convinced that its analysis and holding are correct. Accordingly, Big River's motion for reconsideration is denied.

Dated this 29th day of June, 2009, at Kansas City, Kansas.

s/James P. O'Hara
James P. O'Hara
U.S. Magistrate Judge

¹*Hancock v. City of Okla. City*, 857 F.2d 1394, 1395 (10th Cir. 1988).

²*Comm. for the First Amendment v. Campbell*, 962 F.4 2d 1517, 1523 (10th Cir. 1992).

³*Major v. Benton*, 647 F.2d 110, 112 (10th Cir. 1981); *Voelkel v. General Motors Corp.*, 846 F. Supp. 1482, 1483 (D. Kan. 1994).

⁴*Voelkel*, 846 F. Supp. at 1483 (citing *OTR Driver at Topeka Frito-Lay, Inc.'s Distrib. Cr. v. Frito-Lay, Inc.*, No. 91-4193, 1993 WL 302203, at *1 (D. Kan. July 19, 1993)).