

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

FILED
SEP 18 2009

[Signature]
CLERK

NORTHERN VALLEY
COMMUNICATIONS, LLC,

Plaintiff,

v.

QWEST COMMUNICATIONS
CORPORATION,

Defendant.

*
*
*
*
*
*
*
*
*
*
*

CIV 09-1004

OPINION AND ORDER

Defendant filed a motion, Doc. 53, to join Global Conference Partners as a counterclaim defendant. Defendant alleges in its answer and counterclaim, Doc. 54, that plaintiff and Global Conference engaged in a “traffic pumping” scheme to illegally obtain millions of dollars from defendant through plaintiff’s charges to defendant for providing terminating switches access telephone services. These charges are the basis of plaintiff’s complaint against defendant.

Defendant contends that joinder is appropriate pursuant to Fed. R. Civ. P. 13(h) [Rules 19 and 20 govern joinder as parties to a counterclaim], 20(a) and 21[misjoinder]. Rule 20(a)(2) provides, in part:

Permissive Joinder of Parties

(a) Persons Who May Join or Be Joined.

- (2) **Defendants.** Persons . . . may be joined as defendants if:
 - (A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences;
 - and
 - (B) any question of law or fact common to all defendants will arise in the action.

I find that the requirements of Rule 20(a)(2) are met in this case. Global Conference Partners should be joined as a party defendant in this act, thus allowing Defendant to assert its claim against them as set forth in the answer and counterclaims filed, Doc. 54.

Defendant filed a motion to amend counterclaims, Doc. 56. Plaintiff has not opposed the motion.

Now, therefore,

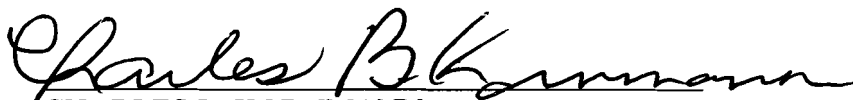
IT IS ORDERED:

1. The motion, Doc. 53, to join Global Conference Partners as a counterclaim defendant is granted.

2. The motion, Doc. 56, to amend counterclaims is granted.

Dated this 18th day of September, 2009.

BY THE COURT:



CHARLES B. KORNMANN

United States District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY:  DEPUTY

(SEAL)