Exhibit No.:
Issues: Multiple jurisdictional, contractual, and policy related issues
Witness: Russ Wiseman
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Halo Wireless Inc.
Case Nos.: TC-2012-0331 and TO-2012-0035

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

Halo Wireless, Inc.,	§	
	§	
Complainant,	§	Case No. TC-2012-0331
	§	
v.	§	
	§	
Craw-Kan Telephone Cooperative, Inc., et al.,	§	
	§	
Respondents.	§	
		consolidated with

Alma Communications Company d/b/a Alma Telephone Company, et al.	§	
	§	
	§	Case No. IC-2012-0035
Complainants,	§	
	§	
vs.	§	
Halo Wireless, Inc. and Southwestern Bell Telephone Company, d/b/a AT&T Missouri,	§	
Respondents.	§	

PRE-FILED REBUTTAL TESTIMONY OF RUSS WISEMAN
ON BEHALF OF HALO WIRELESS, INC.

June 19, 2012

Halo Exhibit No. D
Date 6-26-12 Reporter PF
File No. IC-2012-0331

Halo Exhibit D

AFFIDAVIT OF RUSS WISEMAN

STATE OF TEXAS §
§
COUNTY OF DALLAS §

I, Russ Wiseman, of lawful age, being duly sworn, depose and state:

1. My name is Russ Wiseman. I am the President and Chief Operating Officer for Halo Wireless, Inc.

2. Attached hereto and made a part hereof for all purposes are my Rebuttal Testimony and true and correct copies of the exhibits thereto.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

s/ Russ Wiseman
RUSS WISEMAN

SUBSCRIBED and SWORN TO, on this the 19 day of June, 2012.

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PRE-FILED REBUTTAL TESTIMONY OF RUSS WISEMAN
ON BEHALF OF HALO WIRELESS, INC.

INTRODUCTION

Q: Please state your name, title and business address.

A: My name is Russ Wiseman. I am the President and Chief Operating Officer for Halo Wireless, Inc. ("Halo"). My business address is 2351 W. Northwest Highway, Suite 1204, Dallas, TX 75220. I am responsible for all operations at Halo, including sales, marketing, network and system operations, and inter carrier relations.

Q: On whose behalf are you appearing?

A: I am appearing for Halo.

Q: Are you the same Russ Wiseman who presented Direct Testimony?

A: Yes.

Q: Are you an attorney?

A: No.

Q: On whose behalf are you appearing?

A: I am appearing for Halo.

Q: What is the purpose of this Rebuttal Testimony?

A: I will respond to the Direct Testimonies of the staff witness and the witnesses for AT&T (the "AT&T Witnesses") and the RLECs (the "RLEC Witnesses") in consolidated cases, No. TC-2012-0331 (the "Blocking Proceeding"), and No. IC-2012-0035 (the "ICA Rejection Proceeding" and collectively with the Blocking Proceeding, the "MOPSC Proceedings"). In particular, I will respond to the Direct Testimonies of William Voight for the Staff, J. Scott McPhee and Mark Neinast for AT&T (the "AT&T Witnesses"), Tommie Sue Loges for Alma Telephone Company, Amanda Molina for Choctaw Telephone Company and Mokan Dial Inc., and Debbie Choate for Miller Telephone Company (collectively the "Opposing Party Testimony"). I will also provide additional rebuttal testimony relevant to the facts in the MOPSC Proceedings to inform the Commission and assist it in ruling on the matters before it in the MOPSC Proceedings.

Q: Will you specifically "rebut" everything in the Opposing Party testimony that you take issue with?

A: No. Many of the things they say were already and sufficiently addressed in my Direct. In order to conserve time and paper I will not repeat what I've already said. My silence in this Rebuttal Testimony on a claim or argument made in the Opposing Party Testimony should not be interpreted as assent, concurrence, agreement or admission. To the contrary.

Q: To the extent you respond to specific testimony by the Opposing Parties are you agreeing the testimony is relevant and admissible?

A: No. My Rebuttal is presented in case the Commission decides to receive and consider the Opposing Party Testimony to which I respond.

Q: Have you read the Opposing Party Testimony?

A: Yes, I have read the Opposing Party Testimony and will respond to same below.

RESPONSE TO MCPHEE

Q. On Page 4 of his Direct Testimony, Mr. McPhee repeats AT&T's Claim that Halo "disguised traffic" through signaling manipulation. How do you respond?

A. I previously addressed Halo's signaling practices and Halo's compliance with industry practice regarding signaling in my direct testimony and won't repeat that entire discussion here. However, it should be reiterated that Halo has never attempted to "disguise" traffic. Halo has never manipulated or inserted CPN or done anything that prevented AT&T from determining the initial geographical starting point of a call. Halo's practice until December 2011 was to merely insert the correct CN number of its customer Transcom because Transcom was indeed the financially responsible party for the traffic sent to AT&T for termination over the interconnection trunks. Should it have desired to do so, AT&T could have generated CABS bills from AMA records. So AT&T cannot legitimately claim that Halo prevented AT&T from properly identifying and billing for Halo's traffic. In any event, Halo's ICAs with AT&T all rely on traffic factors for billing. There is no call-by-call rating anywhere. So by inserting the CN, or not inserting the CN, billing is unaffected.

Q. Why are these facts relevant?

A. AT&T's ability to generate CABS bills from AMA records from Halo's traffic contradicts the RLECs' claims that AT&T didn't know how to send them records to bill. Based on the advice of counsel, it is my understanding that this fact and the fact that any change or deletion of CPN was done by AT&T, and not Halo, is sufficient to deny blocking under Missouri's ERE rules.

Q. On page 24 of his Direct Testimony, Mr. McPhee claims that Halo is violating the ERE rule by sending landline traffic that is not meant for the LEC-to-LEC network and then not paying AT&T for it. How do you respond?

If AT&T is right and that traffic should not be on the network, it was AT&T who put the traffic there. If they were right to put it there, then there can be no ERE rule violation. If AT&T was wrong to put it there then AT&T is to blame. In no case can Halo be blamed for AT&T's decision – into which Halo had no input or control – to place any traffic on the so-called "LEC-to-LEC network."

RESPONSE TO NEINAST

Q: What is your response to the Testimony of Mr. Neinast and the other Opposing Party Witnesses on the "wireless" issue?

A: With regard to the "wireless origination" issue, the Opposing Party Witnesses each base their opinions, conclusions and ultimate positions on one express assumption and another implicit assumption. They also exhibit surprising ignorance – which seems disingenuous – about how Enhanced Service Providers ("ESPs") have always obtained their connections to the public switched telephone network ("PSTN") in order to originate and terminate communications where one, the other or both edge devices were on the PSTN.

Q: What is the express assumption?

A: They expressly focus entirely on the "telephone number" that appears in the SS7-related CPN or CN address signal as the sole basis for a series of conclusions regarding "where" a call "actually" originated, which "carrier" serves the initial calling party and whether the call is "landline" or "wireless."

Q: Is this a valid or reasonable assumption?

A: No. The Opposing Party Witnesses assert that the assumption is reasonable, but they do not recognize and accept what the telecommunications industry has already accepted, and that is that telephone numbers are no longer accurate proxies for determining a call's location, carrier networks or call types in today's world. Indeed, this has been the case for quite some time – ever since number portability, VoIP services and wireless mobility began to proliferate. The fact that there is no convenient or industry agreed solution to this problem, and some have chosen to rely on antiquated industry practices they know full well yield inaccurate results, should not validate the assumptions and conclusions the Opposing Party Witnesses reach.

Q: What is one of the key implicit assumptions?

A: The Opposing Party Witnesses necessarily assume that Halo's customer is something other than a communications intensive business end user and as such an end-point where calls originate and terminate. None of the witnesses consider the possibility that Transcom is an end user, and what the implications such a distinction would have on their characterizations and conclusions, which are entirely based on the proposition that Transcom is or must be a telecommunications carrier rather than an end user.

Q: Do the Opposing Party Witnesses ever address the fact that Transcom is an ESP and end user?

A: Yes. Not surprisingly, however, the Opposing Party Witnesses refuse to acknowledge the rulings discussed in my Direct (and attached as Exhibits 1-4 to the Direct Testimony of Robert Johnson) that refute this position. Notably, AT&T's witness, Mr. Neinast, seems to rely only on two decisions from state commissions to support his argument that Transcom does not provide enhanced services.

Based on advice from Halo's counsel, it is my understanding that the Transcom Bankruptcy Court made findings on the identical facts underlying AT&T's Complaint against Halo before this Commission. Since the Transcom Bankruptcy Court determined that Transcom provides enhanced services which are "not subject to access charges," AT&T may not seek a contrary determination in this or any other proceeding. This is not a situation where AT&T was unaware of Transcom's contentions that it provided enhanced services at the time that the Transcom Bankruptcy Case was pending. To the contrary, it is my understanding that this contention was openly litigated during the Transcom Bankruptcy Case and was ultimately a critical component of Transcom's emergence from bankruptcy.

Although the ICA between AT&T and Halo was signed after the Confirmation Order, the current action is undeniably based on the same facts as the Transcom Bankruptcy Case because the primary issue in both proceedings is whether Transcom provides enhanced services.

AT&T's Complaint filed with the Tennessee Regulatory Authority ("TRA") confronted the TRA with the identical issue that the Transcom Bankruptcy Court was confronted with over five years ago. As it's been presented to me, the issue was litigated on April 14, 2005, and again at the Confirmation Hearing. Transcom and the AT&T/SBC Creditors appeared, offered

evidence, and argued their respective positions on the ESP and end user issues. The parties also submitted post-hearing briefs supporting their positions. In deciding that Transcom does provide enhanced services and is an end user, the Transcom Bankruptcy Court took into account all of the evidence, oral argument, and briefing submitted by both Transcom and the AT&T/SBC Creditors on the issue. Because AT&T's Complaint before the TRA, and also before this Commission, raises claims and issues which were disposed of in the Plan and Confirmation Order – including a finding that Transcom provides enhanced services not subject to access charges – it is my understanding that AT&T is barred from seeking the payment of access charges from Halo under several legal theories, the briefing of which I will leave to Halo's counsel.

Halo counsel and I believe the TRA's decision to discount prior rulings, to which AT&T was a party, on a critical issue in the proceeding involving Halo and AT&T before the TRA is seriously flawed, and it has been appealed. Setting aside any legal theories under which AT&T might be barred from seeking another determination on this issue, we believe the TRA lacked sufficient evidence to re-decide the ESP issue. For example, in ruling that Transcom does not provide enhanced services, which we and four prior court rulings disagree with, the TRA cited only testimony from AT&T's witness, who merely proffered non expert opinions with no legal foundations. In fact, in cross examination in other Public Utility Commission proceedings, when these same witnesses have been asked what Transcom is, they are on the record as saying they don't know what Transcom is. This contradictory testimony suggests to me that their testimony on this issue is shallow at best, and meant to deflect a very salient fact that would otherwise undermine their entire case.

In his Direct Testimony, Mr. Neinast cites a ruling of the Pennsylvania Public Utility Commission involving Transcom and an entity unrelated to Halo, Transcom, or AT&T, Global NAPS South, Inc. AT&T's consideration of this decision raises the question – why would AT&T pick and choose which prior rulings it would ask the Commission to consider on the ESP issue and fail to give weight to several rulings involving AT&T itself? The only logical conclusion I can reach is that AT&T simply did not like the conclusion reached in the prior rulings in the Transcom Bankruptcy Court, and therefore, AT&T is choosing to ignore them.

They do so, as I state above, because they know consideration of the prior rulings would turn their conclusions upside down. Ultimately, the Opposing Party Witnesses fixate entirely on what happens before Transcom receives a call for processing. They skip over the fact that the Transcom Bankruptcy Court ruled (over AT&T's objection) that Transcom changes the content and adds enhancement before Transcom then uses telephone exchange service (such as the telephone exchange service it purchases from Halo) to originate (or re-originate) the call in the MTA using its wireless CPE.

Our position throughout these proceedings, supported by relevant judicial decisions, is that Transcom is buying "end user" telecommunications service (in the form of a wireless "business line") from Halo so that Transcom can originate and terminate calls. Transcom uses this telecommunications just like many other businesses, including ESPs, do: as one of several other production inputs to its own product output. This is not a radical or new theory; the enhanced/information service precedent has long recognized that adding enhanced/information functions on top of the telecommunications "contaminates" the telecommunications, with the result that the ESP's finished service is "enhanced/information" rather than a telecommunications service. This is how ESPs have always operated.

Based on this historical doctrine, the Opposing Parties' challenge of Transcom's ESP status is backwards. They should be explaining why Transcom's service continues to be fundamentally "telecommunications" in nature, and the extent to which the telecommunications are not integrated with and subsumed within the higher-layer generation, acquisition, transformation, processing, retrieval, utilization and/or making available of Transcom's customer-supplied information.[1] The Opposing Parties' claim that the "change of content" functions – which they frankly admit are occurring or the capability exists – should be disregarded because they only "improve call quality" and are thus merely "incidental" or "adjunct" to the telecommunications component. They seem to be espousing what I have come to understand is the "adjunct to basic" rule, which applies to services that are "incidental" to an underlying telecommunications service and do not "alter[] their fundamental character" even if they may meet the literal definition of an information service or enhanced service.[2] What the

[1] *See Second Computer Inquiry* ¶ 120 ("... The Commission therefore determined that enhanced services, which are offered "*over* common carrier transmission facilities," were themselves not to be regulated under Title II of the Act, *no matter how extensive their communications components*. The Commission reaffirmed its definition of enhanced services in the *Computer III* proceeding.") (Emphasis added.); Notice of Proposed Rulemaking, *In the Matters of: Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry) and Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Thereof; Communications Protocols under Section 64.702 of the Commission's Rules and Regulations*, CC Docket No. 85-229, FCC 85-397, ¶ 46, and note 34, 1985 FCC LEXIS 2770 (rel. Aug 1985) (*Computer III Notice*) ("n34 **These disparate policies [i.e., a "contamination" one for entities lacking market power and a non-"contamination" one for dominant carriers** such as AT&T and the BOCs] have made sense as a policy matter, but since we have not articulated a basis for treating the two groups differently some confusion may have been created. Deregulation of entities that do not have underlying facilities and that obtain transmission capacity from others pursuant to their tariffs is sensible; no policy goal is served by regulating any aspect of these entities' offerings. Conversely, the offerings of dominant carriers are often monopoly or near-monopoly ones. Such offerings are needed and used by competitors and can be manipulated anticompetitively.").(emphasis added)

[2] *See, e.g.,* Order and NPRM, *In the Matter of AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services Regulation of Prepaid Calling Card Services*, WC Docket Nos. 03-133, 05-68, FCC 05-41, ¶ 16, 20 FCC Rcd 4826, 4831 (rel. Feb. 2005) (*Calling Card Order)*; Memorandum Opinion and Order, *North American Telecommunications Association Petition for Declaratory Ruling Under § 64.702 of the Commission's Rules Regarding the Integration of Centrex, Enhanced Services, and Customer Premises Equipment*, ENF 84-2, 101 FCC 2d 349, 359-361, ¶¶ 24-28 (1985) (*NATA Order*) (services that "facilitate the provision of basic services without altering their fundamental character" are not considered enhanced services), *recon.*, 3 FCC Rcd 4385, 4386, paras. 8-9 (1988) (*NATA Reconsideration Order*); Memorandum Opinion and Order, *Beehive Telephone v. The Bell Operating Companies*, File No. E-94-57, 10 FCC Rcd 10562, 10566, ¶ 21 (1995) ("services that are incidental or adjunct to the common carrier transmission service are to be regulated in the same way as the common

ILECs consistently forget, or would like the state commissions to ignore, is that the adjunct to basic rule cannot apply when (as here), Transcom does not provide *any* telecommunications service. The adjunct to basic rule only applies to carriers that have a basic telecommunications service and *also* offer a feature that has some "enhanced/information qualities" as well. In other words, there must first be a "basic" telecommunications service. Otherwise there is nothing the "enhanced functions" can be "adjunct" to.[3] Since Transcom does not have or offer a common carrier basic telecommunications service offering, there is *nothing to which the higher layer enhanced functions can be "adjunct" to and therefore the "adjunct to basic" rule simply cannot apply.* This is simple logic. Given that Transom is not a common carrier and does not provide any telecommunications service, the question is not whether any of its discrete services or functions are "sufficiently integrated" to "transmute" or "convert" a basic telecommunications service into an enhanced/information service. There is no telecommunications service to "convert."

What Transcom has told me, and what I understand to be true, is that they do not own any of their own transmission facilities. Instead, they obtain leased transmission capability from third party providers in order to interconnect their distributed elements together. to which they add their own functionalities. My understanding is that Transcom also purchases telecommunications services from CLECs (or here, Halo) that provide transmission from the edge of Transcom's network in order to transport calls to any other network as necessary for termination. Halo has

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carrier service"), *aff'd on remand*, Memorandum Opinion and Order, 12 FCC Rcd 17930 (1997); Memorandum Opinion and Order *AT&T 900 Dial-It Services and Third Party Billing and Collection Services*, File No. ENF-88-05, 4 FCC Rcd 3429, 3431, ¶ 20 (CCB 1989) (service is an enhanced service if the information provided is "not incidental" to the basic telecommunications service, but rather is "the essential service provided").

[3] The common dictionary meaning of "adjunct" is "something added to another thing but not essential to it." *See* adjunct. Dictionary.com. Dictionary.com Unabridged. Random House, Inc. http://dictionary.reference.com/browse/adjunct (accessed: March 28, 2012).

relied on the fact that Transcom does not *provide* raw transmission or provide telecommunications; our understanding and position is that it *buys* telecommunications from other vendors and then adds the enhanced capabilities from its platform elements that are connected to each other via telecommunications.

In summary, and based on advice of counsel, we believe the "contamination" doctrine, rather than the "adjunct to basic" rule applies to the services Halo offers to Transcom. Halo's belief and understanding is that Transcom changes content, and is not providing any telecommunications. Thus, we contend that Transcom is an end user. End users are "end-points." End users originate calls, and calls terminate to them. Based on law and precedent, we don't believe it is correct to simply "skip over" Transcom and look through to how or where a call started. The ILECs (and even the FCC) are applying the same "end to end" call theory that Halo's counsel has advised me the D.C. Circuit conclusively held was unlawful in *Bell Atlantic*. Our position is thus that the traffic in question here is not access traffic. Rather, it is wireless end user originated traffic, and thus there is no breach of our AT&T ICA. I will leave further response to the portions of the Opposing Party Testimony regarding Transcom's ESP status to Mr. Johnson.

Q: Please set aside the question of whether Transcom is an ESP. In other words please assume for a moment that Transcom has not claimed ESP status. Would elimination of the "ESP issue" from the case necessarily mean that Opposing Parties win the day?

A: Not in our view. We believe the ESP question is important and determinative in our favor, but even if one sets aside Transcom's ESP status, or, even if the Commission were to find that Transcom is not an ESP, that does not mean the Opposing Parties win the day. This is because under the FCC's rules, there are only two types of customers: carriers and end users.

Any customer of a telecommunications service that is *not a common carrier* is an end user. Since Transcom is not a common carrier it must be an end user. As I said above, end users originate communications. They are end points. In Missouri, the "Transcom as end user end point" is in the same MTA as the called party. While we recognize the FCC disagreed that "Transcom" is not the originating point *for purposes of the intraMTA rule* that does not resolve the inquiry, because the FCC's decision does not justify the separate issue of whether the traffic "originated from wireless equipment" for purposes of the contract provision. Equally important, it does not at all resolve another question: where and how the call might have actually "originated" for other purposes.

Q: Please explain you latter point.

A: Based on the advice of counsel, it is my understanding that the FCC did not rule that any of this traffic actually "originated" anywhere in particular. All they held was that *for purposes of the intraMTA rule* it did not originate on Halo's network. What the ILECs here are trying to do is extend the FCC ruling to go farther than it really did. I also note that they necessarily disagree with the FCC's characterization that Halo is providing "transit" and they are simultaneously arguing that Halo is not the originating carrier but trying to have the Commission treat Halo as if it is the originating carrier for purposes of the ERE rule. The FCC order simply cannot be stretched to address or resolve the question of "where" and "how" any given call "originated" for any purpose other than the "intraMTA rule."

Q: Do the ILECs make any other unsupported assumptions?

A: Absolutely. All of them assume without any factual support or even admitting they are doing so that the calls actually originated on a legacy circuit-switched network by a basic

telephone exchange service customer who dialed "1+" to make a toll call through their preferred IXC.

Q: Why is that important?

A: Because that is the only way any of the traffic in issue could have possibly ever touched any Feature Group D exchange access arrangement.

Q: Did the ILECs present any evidence that a single call was "originated" by an end user on an ILEC's legacy circuit-switched network who dialed 1+ and was trying to make a telephone toll call using a traditional IXC?

A: No. They are assuming that this occurred merely because they see a telephone number – the originating caller identification Halo faithfully signaled at all times.

Q: Even if one assumes that some calls did start out from an end user consuming legacy circuit-switched telephone exchange service provided by an ILEC to make a 1+ call handed by an IXC (and therefore the call was routed over originating Feature Group D) can that be deemed to be a violation of the ERE rules?

A: No. The ERE rule 240-29.030(3) says that "no *originating wireline* carrier shall place interLATA traffic on the LEC-to-LEC network. Halo is not a "wireline" carrier. The ILECs uniformly say Halo is not the "originating" carrier. Thus there is no way this rule could be involved or violated in this case. 240-29.030(3) says "no carrier shall *terminate* traffic on the LEC-to-LEC network, when such traffic was originated by or with the use of feature group A, B or D protocol trunking arrangements." Halo is not the terminating carrier. Halo is not, and never has "terminated" traffic on the LEC-to-LEC network. Therefore, this rule also simply does not apply.

RESPONSE TO RLEC WITNESSES

Q. The RLEC Witnesses Claim that Halo has used their networks without paying appropriate compensation or attempting to negotiate interconnection agreements with the RLECS like other CMRS providers. How do you respond?

These allegations are totally false and without merit. It is certainly true that Halo started operations in the AT&T operating territories with only AT&T ICAs, relying on the rather expensive transit provisions of these agreements to reach independent third party carriers. This was both lawful, and practical. With thousands of carriers across the country, it is simply not practical for a new provider to obtain agreements with all of them at the outset. The FCC has recognized this as such, and thus does not require new carriers to obtain these agreements prior to service launch.

Based on the advice of counsel and the FCC's rules, it was Halo's understanding that when carriers are indirectly interconnected (as was the case with Halo and the RLECs in Missouri), all "non-access" traffic is subject to a "no compensation" regime unless and until the indirectly interconnected carriers enter into a written ICA. It was also Halo's understanding that under 47 CFR § 20.11(e), ILECs (but not "CLECs") were allowed to send a written "request for interconnection" that "invoke[s] the negotiation and arbitration procedures contained in section 252 of the Act" to a CMRS provider. *See* At that point, the carriers were required to negotiate terms implementing their respective duties under section 251(a), (b) and, if applicable, (c). It was also Halo's understanding that under 47 CFR § 20.11(e), if the parties are unable to resolve all issues through negotiation, the incumbent may request that the CMRS provider "submit to arbitration by the state commission."

Q. Did the RLECs in the MOPSC Proceedings initiate the interconnection negotiation process you described under 47 CFR § 20.11(e)?

A. Based on Halo's understanding of the applicable rules, none of the RLECS in the MOPSC Proceedings properly invoked the process I described. This is significant because had they sent the simple letter complying with the rules, interim compensation payments would have been paid to them, as Halo did with multiple other similarly situated carriers to whom Halo paid such interim compensation payments, but only after they sent a proper request to Halo. The RLECs to whom Halo paid interim compensations were both large and small, including all of the applicable Windstream RLEC entities, and dozens of small independent RLECs. So Halo did not treat anyone differently. However, the RLECs themselves fell into two camps. Those that adhered to the old 20.11(e) interim compensation rules, and those that decided these rules did not support the outcomes they desired, so they chose to ignore them. Those that chose the latter path did so at their sole discretion, in the hopes they'd receive higher compensation at the end of the day. To then base a claim that Halo has, or is, using their networks for free, is beyond preposterous. But this is what they want this Commission to believe.

Q. When did the RLECs involved in this proceeding begin receiving Halo traffic, and how did they respond?

To Halo's knowledge, the various RLECS represented by Mr. William England (the "England RLECs") in these proceedings began receiving Halo traffic on or about November 2010. Beginning on or about November 30, 2010, the England RLECs began issuing invoices to Halo for access charges or claimed reciprocal compensation billings based on allegations by the England RLECs that Halo was obligated to pay such sums. When Halo refused to pay these billings because they violated Rule 20.11, some of the England RLECs then began to "block"

Halo's traffic as a means to coerce Halo into waiving its rights. Halo responded to the billings beginning in December 2010, by way of "disputes," observing that the access billings violated rule 20.11(d), and under the *T-Mobile Order*,[4] no compensation would be due unless and until there was a permanent written agreement or at least an interim arrangement like that contemplated by rule 20.11(e). Over the next several months, the parties exchanged other similar communications wherein each stated and restated their respective positions.

The England RLECs have, from time to time, purported to be interested in using the FCC's remedy set out in rule 20.11(e) that would allow them to initiate negotiations, and if necessary, obtain a state-level arbitration. Halo has advised the England RLECs that those who are ILECs are free to do so at any time. All they have to do is "request interconnection" and "invoke the negotiation and arbitration procedures contained in section 252 of the Act." *See* 47 C.F.R. § 20.11(e). To date, Halo has received letters from the following England RLECs that the England RLECs have contended adequately comply with rule 20.11(e) requirements: Citizens, Green Hills and GHTS (December 30, 2010 letter from William England to Halo) (See Wiseman Exhibit 3); Goodman, Granby, Grand River, Lathrop, McDonald County, Oregon Farmers, Ozark, and Seneca (January 26, 2011 letter from William England to Halo) (See Wiseman Exhibit 4); Rock Port (January 27, 2011 letter from William England to Halo) (See Wiseman Exhibit 5); Ellington, Farber, Fidelity, FCSI, FCSII, Holway, Iamo, Kingdom, K.L.M., Le-Ru, Mark Twain, MTCC, New Florence, Steelville (February 17, 2011 letter from William England to Halo) (See Wiseman Exhibit 6); BPS, Craw-Kan, Miller, New London, Orchard Farm, Peace

[4] Declaratory Ruling and Report and Order, *In the Matter of Developing a Unified Intercarrier Compensation Regime, T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs*, CC Docket 01-92, FCC 05-42, 20 FCC Rcd 4855 (2005) ("*T-Mobile Order*"). This was the proceeding in which the FCC promulgated rules 20.11(d) prohibiting tariff charges for non-access traffic, and 20.11(e) which afforded ILECs the opportunity to compel interconnection and use of the section 252 process if they both "request interconnection" and "invoke the negotiation and arbitration procedures contained in section 252 of the Act."

Valley, Stoutland (February 25, 2011 letter from William England to Halo) (See Wiseman Exhibit 7).

Halo responded to those letters and repeatedly pointed out that the "requests" do not meet the requirements of rule 20.11(e). (See Wiseman Exhibits 8 through 13). First, several of the above listed entities (Green Hills, FCSI, FCSII and MTCC) are not ILECs, and thus, are not eligible under the rule. Second, even as to those England RLECs that are ILECs, the letters were deemed deficient. The letters request "negotiations with Halo Wireless (Halo) toward an Agreement pursuant to Section 251 of the Telecommunications Act of 1996" or "seek to initiate negotiations toward an interconnection agreement pursuant to Sections 251 and 252, as envisioned by the FCC in its 2005 *T-Mobile* decision." None of the letters "request interconnection," and, while the question is admittedly a bit closer, they do not specifically "invoke the negotiation and arbitration procedures contained in section 252 of the Act."

Based on advice of counsel, it is my understanding that "requesting "negotiations" is much different than "requesting interconnection." "Interconnection" is a term of art and it has a very specific meaning: "Interconnection" under sections 251(a) and 251(c)(2) (along with the "physical connections" referred to in section 332(c)(1)(B), which in turn implements the "physical connection" aspects of section 201(a)), means "the linking of two networks for the mutual exchange of traffic. This term does not include the transport and termination of traffic." *See* 47 C.F.R. 51.5; *see also Competitive Telcoms. Ass'n v. FCC*, 117 F.3d 1068, 1071 (8th Cir. 1997). Requesting "interconnection" is a <u>substantive</u> requirement. Then, in addition, one must invoke the "negotiation and arbitration procedures contained in section 252 of the Act" in order to start the <u>process</u> by which contract terms covering interconnection, traffic exchange and the other duties set out in section 251. These are independent and separate requirements. The

process simply does not start until the "requesting carrier" at least delivers "a request for interconnection, services, or network elements pursuant to section 251." *See* § 252(a)(1). The England Defendants flatly refused to do either of these two very simple things. Again, these things are what other RLECs either did from the start, or did after Halo pointed out these deficiencies. They did not modify their letters because of greed. They wanted higher compensation than what 20.11(e) afforded them. They also did not want to be the requesting carrier, and bear the burden of negotiations and service delivery that this status implies. They wanted this burden to fall on Halo, and they wanted to limit what could be negotiated.

To Halo's knowledge, the RLECs represented by Mr. Craig Johnson in these proceedings (the "Johnson RLECs") began receiving Halo traffic on or about November 2010. Beginning on or about January 1, 2011, the Johnson RLECs issued invoices to Halo for access charges. Halo responded to the billings beginning in February 2011, by way of "disputes," observing that the access billings violated 20.11(d), and under the *T-Mobile Order*, no compensation would be due unless and until there was a permanent written agreement or at least an interim arrangement like that contemplated by 20.11(e). Over the next several months, the parties exchanged other similar communications wherein each stated and restated their respective positions.

In stark contrast to the England RLECs, the Johnson RLECs expressly disclaimed any intent to use the FCC remedy. For example, in his March 7, 2011 letter to Halo (See Wiseman Exhibit 14). Mr. Johnson stated, "to be clear, Mid-Missouri has not requested interconnection agreement negotiations with Halo. Mid-Missouri has informed Halo that it can avoid the blocking request by requesting negotiations with Mid-Missouri to adopt or establish an interconnection agreement." Although Halo has had some discussion with the Johnson RLECs about negotiations, the Johnson RLECs have to date refused to use the FCC-prescribed process

and remedy in favor of instituting blocking (and then filing a state commission complaint) in order to coerce Halo into abandoning that process, waiving its rights, and agreeing to terms Halo would not otherwise accept.

Q: Did Halo ever refuse to negotiate with any Missouri ILEC?

A: Absolutely not. We consistently told them we would negotiate in good faith. We sent them proposed ICA terms. We told them how they could secure interim payment. We never refused at any time to negotiate. They simply did not like our negotiating position, and chose to take unilateral action rather than following the process for negotiation and state arbitration set out in the federal Act and FCC rule 20.11.

Q. Do you find any other issues with the RLEC Witnesses' Testimony?

A. There are multiple factual and logical problems with the testimony of the RLEC witnesses which has already been addressed in my direct testimony and which I could further address here. However, one of the most fatal flaws in their claims against Halo is their acknowledgement that their refusal to negotiate with Halo, their bases for disputing Halo's business model, and the claims they are now pursuing are all based on unidentified industry reports and rumors, unverified traffic studies from AT&T, and their unsubstantiated belief that access charges must be due. In other words, the RLEC Witnesses have not done any legitimate analysis of real facts or data to support the conclusions and claims they assert.

Q: Does this conclude your testimony?

A: Yes. I reserve the right to make corrections of any errors we may discover by submitting an *errata*.

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
PROFESSIONAL CORPORATION

DAVID V.G. BRYDON, Retired
JAMES C. SWEARENGEN
WILLIAM R. ENGLAND, III
JOHNNY K. RICHARDSON
GARY W. DUFFY
PAUL A. BOUDREAU
CHARLES E. SMARR
DEAN L. COOPER

312 EAST CAPITOL AVENUE
P.O. BOX 456
JEFFERSON CITY, MISSOURI 65102-0456
TELEPHONE (573) 635-7166
FACSIMILE (573) 634-7431

BRIAN T. MCCARTNEY
DIANA C. CARTER
SCOTT A. HAMBLIN
JAMIE J. COX
L. RUSSELL MITTEN
ERIN L. WISEMAN
JOHN D. BORGMEYER

COUNSEL
GREGORY C. MITCHELL

December 30, 2010

VIA EMAIL & U.S. POSTAL SERVICE

Mr. John Marks
General Counsel
Halo Wireless
3437 W. 7th Street, Suite 127
Forth Worth, TX 76107

Re: Request for Interconnection & Compensation Arrangements

Dear Mr. Marks:

Our firm represents Citizens Telephone Company of Higginsville, Missouri, Inc. (Citizens), Green Hills Telecommunications Services and Green Hills Telephone Company (collectively Green Hills), which are Local Exchange Companies serving rural areas in the state of Missouri. Citizens and Green Hills have recently received billing records from their tandem provider, AT&T Missouri, indicating that Halo Wireless (Halo) is sending traffic through the AT&T tandem in Kansas City, Missouri, over the LEC-to-LEC (or Feature Group C) network for ultimate termination to customers served by Citizens and Green Hills. Currently, Halo has no agreement with either Citizens and Green Hills to terminate this traffic, and an attempt by Green Hills to bill Halo for this traffic was refused on the grounds that this traffic was wireless and therefore not subject to access charges. (See your correspondence dated December 22, 2010, a copy of which is attached). While AT&T's billing records indicate that this traffic is wireless, a review of Citizens' and Green Hills' switch records for a sample of this traffic indicates that a significant portion of this traffic appears to be wireline interexchange and 800 originating traffic (despite your representation to the contrary).

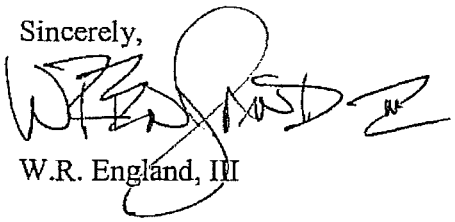
While Citizens and Green Hills acknowledge that wireless carriers are not subject to access charges for intraMTA wireless traffic, they are nevertheless subject to access charges for interMTA wireless traffic as well as interexchange wireline traffic. Moreover, the Missouri Public Service Commission (PSC) has promulgated rules which prohibit carriers, including wireless companies, from terminating InterLATA wireline traffic over the LEC-to-LEC Network. (See MoPSC Rules 4 CSR 240-29.010 et.seq.) Accordingly, Citizens and Green Hills request that Halo immediately cease terminating any interLATA wireline traffic over the LEC-

to-LEC (or Feature Group C) network. If Halo Wireless is not willing or unable to do so, Citizens and Green Hills will request AT&T to block its traffic pursuant to MoPSC Rule 4 CSR 240-29.130.

Also, Citizens and Green Hills request that Halo Wireless begin negotiations, pursuant to Section 251 of the Telecommunications Act, to establish appropriate interconnection arrangements (including reciprocal compensation) for the intraMTA wireless traffic that Halo Wireless is terminating to Citizens and Green Hills. Citizens and Green Hills currently have a number of Traffic Termination or Interconnection Agreements with wireless carriers for the indirect interconnection and exchange of intraMTA wireless traffic and they would propose using one of those agreements as a starting point for purposes of these negotiations.

In the meantime, Citizens and Green Hills request that Halo: 1) acknowledge receipt of this letter and indicate its willingness to begin negotiations towards an interconnection agreement for the exchange of, and compensation for, intraMTA wireless traffic; and 2) cease sending any InterLATA wireline traffic over the FGC network for termination to Citizens and Green Hills. Please contact me if you have any questions regarding this matter. I look forward to hearing from you.

Sincerely,



W.R. England, III

WRE/da
Enclosure

Halo wireless

3437 W. 7th Street, Suite 127, Fort Worth, TX 76107

December 22, 2010

Green Hills Telephone Company
Attention: Gina Hart
7926 NE State Route M
P.O. Box 227
Breckenridge, MO 64625

Dear Ms. Hart:

This will acknowledge the invoice from you under your assigned invoice number 1110429F dated 11/30/2010.

Please be advised that Halo Wireless Communications is a Commercial Mobile Radio Service (CMRS) provider. The charges reflected in your statement appear to relate to intrastate access charges. Please be advised that Halo has not ordered or received any interstate or intrastate access services from your company that could possibly be chargeable to Halo, so we have no obligation to pay them.

While there are no charges related to transport and termination of intraMTA or interMTA traffic contained in your statement, since Halo is a CMRS provider, it would have no obligation to pay such charges absent a contract in any event.

Sincerely,

John Marks
General Counsel
jmarks@halowireless.com

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
PROFESSIONAL CORPORATION
312 EAST CAPITOL AVENUE
P.O. BOX 456
JEFFERSON CITY, MISSOURI 65102-0456
TELEPHONE (573) 635-7166
FACSIMILE (573) 634-7431

DAVID V.G. BRYDON, Retired
JAMES C. SWEARENGEN
WILLIAM R. ENGLAND, III
JOHNNY K. RICHARDSON
GARY W. DUFFY
PAUL A. BOUDREAU
CHARLES E. SMARR
DEAN L. COOPER

BRIAN T. MCCARTNEY
DIANA C. CARTER
SCOTT A. HAMBLIN
JAMIE J. COX
L. RUSSELL MITTEN
ERIN L. WISEMAN
JOHN D. BORGMEYER

COUNSEL
GREGORY C. MITCHELL

January 26, 2011

VIA EMAIL & FEDERAL EXPRESS

Mr. John Marks
General Counsel
Halo Wireless
3437 W. 7th Street, Suite 127
Forth Worth, TX 76107

JAN 28 2011

Re: Request for Interconnection & Compensation Arrangements

Dear Mr. Marks:

Our firm represents the following Local Exchange Companies (LECs) in the state of Missouri.

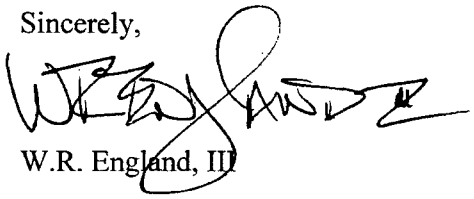
Goodman Telephone Company
Granby Telephone Company
Grand River Mutual Telephone Corporation
Lathrop Telephone Company
McDonald County Telephone Company
Oregon Farmers Mutual Telephone Company
Ozark Telephone Company
Seneca Telephone Company

These LECs have recently received billing records from their tandem provider, AT&T Missouri, indicating that Halo Wireless (Halo) is sending traffic through the AT&T tandems in Missouri, over the LEC-to-LEC (or Feature Group C) network for ultimate termination to customers served by these LECs. Currently, Halo has no agreement with any of these LECs to terminate this traffic.

Accordingly, these LECs request that Halo Wireless begin negotiations, pursuant to Section 251 of the Telecommunications Act, to establish appropriate interconnection arrangements (including reciprocal compensation) for the intraMTA wireless traffic that Halo Wireless is terminating to them.

Please acknowledge receipt of this letter and indicate Halo's willingness to begin negotiations towards an interconnection agreement for the exchange of, and compensation for, intraMTA wireless traffic. I look forward to hearing from you.

Sincerely,



W.R. England, III

WRE/da

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
PROFESSIONAL CORPORATION

DAVID V.G. BRYDON, Retired
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WILLIAM R. ENGLAND, III
JOHNNY K. RICHARDSON
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PAUL A. BOUDREAU
CHARLES E. SMARR
DEAN L. COOPER

312 EAST CAPITOL AVENUE
P.O. BOX 456
JEFFERSON CITY, MISSOURI 65102-0456
TELEPHONE (573) 635-7166
FACSIMILE (573) 634-7431

BRIAN T. MCCARTNEY
DIANA C. CARTER
SCOTT A. HAMBLIN
JAMIE J. COX
L. RUSSELL MITTEN
ERIN L. WISEMAN
JOHN D. BORGMEYER

COUNSEL
GREGORY C. MITCHELL

January 27, 2011

JAN 28 2011

VIA EMAIL & FEDERAL EXPRESS

Mr. John Marks
General Counsel
Halo Wireless
3437 W. 7th Street, Suite 127
Forth Worth, TX 76107

Re: Request for Interconnection & Compensation Arrangement

Dear Mr. Marks:

Our firm represents the following Local Exchange Company (LEC) in the state of Missouri.

Rock Port Telephone Company (Rock Port)

Rock Port has recently received billing records from its tandem provider, AT&T Missouri, indicating that Halo Wireless (Halo) is sending traffic through the AT&T tandems in Missouri, over the LEC-to-LEC (or Feature Group C) network for ultimate termination to customers served by Rock Port. Currently, Halo has no agreement with Rock Port to terminate this traffic.

Accordingly, Rock Port requests that Halo Wireless begin negotiations, pursuant to Section 251 of the Telecommunications Act, to establish appropriate interconnection arrangements (including reciprocal compensation) for the intraMTA wireless traffic that Halo Wireless is terminating to it.

Please acknowledge receipt of this letter and indicate Halo's willingness to begin negotiations towards an interconnection agreement for the exchange of, and compensation for, intraMTA wireless traffic. I look forward to hearing from you.

Sincerely,

W.R. ENGLAND III by BJM

W.R. England, III

WRE/da

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
PROFESSIONAL CORPORATION
312 EAST CAPITOL AVENUE
P.O. BOX 456
JEFFERSON CITY, MISSOURI 65102-0456
TELEPHONE (573) 635-7166
FACSIMILE (573) 634-7431

DAVID V.G. BRYDON, Retired
JAMES C. SWEARENGEN
WILLIAM R. ENGLAND, III
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JAMIE J. COX
L. RUSSELL MITTEN
ERIN L. WISEMAN
JOHN D. BORGMEYER

COUNSEL
GREGORY C. MITCHELL

February 17, 2011

VIA EMAIL & FEDERAL EXPRESS

Mr. John Marks
General Counsel
Halo Wireless
3437 W. 7th Street, Suite 127
Forth Worth, TX 76107

Re: Request for Interconnection & Compensation Arrangements

Dear Mr. Marks:

Previously we have sent you requests on behalf of the following Local Exchange Companies (LECs) to begin negotiations with Halo Wireless (Halo) toward an Interconnection Agreement pursuant to Section 251 of the Telecommunications Act of 1996:

	Letter Sent
Citizens Telephone Company Green Hills Telephone Corporation Green Hills Telecommunication Services	December 30, 2010
Goodman Telephone Company Granby Telephone Company Grand River Mutual Telephone Corporation Lathrop Telephone Company McDonald County Telephone Company Oregon Farmers Mutual Telephone Company Ozark Telephone Company Seneca Telephone Company	January 26, 2011
Rock Port Telephone Company	January 27, 2011

In addition to the above, several other LECs that we represent have recently received billing records from their tandem provider, AT&T Missouri, indicating that Halo is sending traffic to the AT&T tandems in Missouri over the LEC-to-LEC (or Feature Group C) network for ultimate termination to customers served by these LECs. Currently, Halo has no agreement with any of these LECs to terminate this traffic.

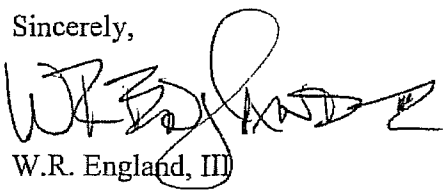
Accordingly, the following LECs request that Halo begin negotiations, pursuant to Section 251 of the Telecommunications Act, to establish appropriate interconnection agreements (including reciprocal compensation) for the local (i.e., intraMTA) wireless traffic that Halo Wireless is terminating to them.

Ellington Telephone Company
Farber Telephone Company
Fidelity Telephone Company
Fidelity Communications Services I
Fidelity Communications Services II
Holway Telephone Company
Iamo Telephone Corporation
Kingdom Telephone Company
KLM Telephone Company
Le-Ru Telephone Company
Mark Twain Rural Telephone Company
Mark Twain Communications Company
New Florence Telephone Company
Steelville Telephone Exchange, Inc.

In response to our earlier correspondence, you have questioned the procedures that these LECs are pursuing to request negotiations. Accordingly, let me make it clear that these LECs seek to initiate negotiations toward an interconnection agreement pursuant to Sections 251 and 252, as envisioned by the FCC in its 2005 T-Mobile decision. Therefore, if voluntary negotiations are unsuccessful, these LECs are willing to submit to arbitration before the Missouri Public Service Commission.

Accordingly, please acknowledge receipt of this letter and indicate Halo Wireless' willingness to begin negotiations towards an interconnection agreement for the exchange of, and compensation for, local (intraMTA) wireless traffic. I look forward to hearing from you.

Sincerely,



W.R. England, III

WRE/da

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
PROFESSIONAL CORPORATION

DAVID V.G. BRYDON, Retired
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312 EAST CAPITOL AVENUE
P.O. BOX 456
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JAMIE J. COX
L. RUSSELL MITTEN
ERIN L. WISEMAN
JOHN D. BORGMEYER

COUNSEL
GREGORY C. MITCHELL

February 25, 2011

VIA EMAIL & FEDERAL EXPRESS

MAR - 1 2011

Mr. John Marks
General Counsel
Halo Wireless
3437 W. 7th Street, Suite 127
Forth Worth, TX 76107

Re: Request for Interconnection & Compensation Arrangements

Dear Mr. Marks:

Previously we have sent you requests on behalf of the following Local Exchange Companies (LECs) to begin negotiations with Halo Wireless (Halo) toward an Interconnection Agreement pursuant to Section 251 of the Telecommunications Act of 1996:

	Letter Sent
Citizens Telephone Company Green Hills Telephone Corporation Green Hills Telecommunication Services	December 30, 2010
Goodman Telephone Company Granby Telephone Company Grand River Mutual Telephone Corporation Lathrop Telephone Company McDonald County Telephone Company Oregon Farmers Mutual Telephone Company Ozark Telephone Company Seneca Telephone Company	January 26, 2011
Rock Port Telephone Company	January 27, 2011

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Farber Telephone Company
Fidelity Telephone Company
Fidelity Communications Services I
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Holway Telephone Company
Iamo Telephone Corporation
Kingdom Telephone Company
KLM Telephone Company
Le-Ru Telephone Company
Mark Twain Rural Telephone Company
Mark Twain Communications Company
New Florence Telephone Company
Steelville Telephone Exchange, Inc.

February 17, 2011

In addition to the above, several other LECs that we represent have recently received billing records from their tandem provider, AT&T Missouri, indicating that Halo is sending traffic to the AT&T tandems in Missouri over the LEC-to-LEC (or Feature Group C) network for ultimate termination to customers served by these LECs. Currently, Halo has no agreement with any of these LECs to terminate this traffic.

Accordingly, the following LECs request that Halo begin negotiations, pursuant to Section 251 of the Telecommunications Act, to establish appropriate interconnection agreements (including reciprocal compensation) for the local (i.e., intraMTA) wireless traffic that Halo Wireless is terminating to them.

BPS Telephone Company
Craw-Kan Telephone Cooperative, Inc.
Miller Telephone Company
New London Telephone Company
Orchard Farm Telephone Company
Peace Valley Telephone Company, Inc.
Stoutland Telephone Company

In response to our earlier correspondence, you have questioned the procedures that these LECs are pursuing to request negotiations. Accordingly, let me make it clear that these LECs seek to initiate negotiations toward an interconnection agreement pursuant to Sections 251 and 252, as envisioned by the FCC in its 2005 T-Mobile decision. Therefore, if voluntary negotiations are unsuccessful, these LECs are willing to submit to arbitration before the Missouri Public Service Commission.

Accordingly, please acknowledge receipt of this letter and indicate Halo Wireless' willingness to begin negotiations towards an interconnection agreement for the exchange of, and compensation for, local (intraMTA) wireless traffic. I look forward to hearing from you.

Sincerely,

W.R. England, III

WRE/da

Halo wireless

3437 W. 7th Street, Suite 127, Fort Worth, TX 76107

December 22, 2010

Green Hills Telephone Company
Attention: Gina Hart
7926 NE State Route M
P.O. Box 227
Breckenridge, MO 64625

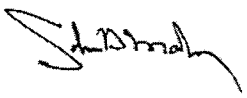
Dear Ms. Hart:

This will acknowledge the invoice from you under your assigned invoice number 1110429F dated 11/30/2010.

Please be advised that Halo Wireless Communications is a Commercial Mobile Radio Service (CMRS) provider. The charges reflected in your statement appear to relate to intrastate access charges. Please be advised that Halo has not ordered or received any interstate or intrastate access services from your company that could possibly be chargeable to Halo, so we have no obligation to pay them.

While there are no charges related to transport and termination of intraMTA or interMTA traffic contained in your statement, since Halo is a CMRS provider, it would have no obligation to pay such charges absent a contract in any event.

Sincerely,



John Marks
General Counsel
jmarks@halowireless.com

Halo wireless

3437 W. 7th Street, Suite 127, Fort Worth, TX 76107

January 24, 2011

W.R. England II
Brydon, Swearengen & England
312 East Capitol Ave
P.O. Box 456
Jefferson City, Missouri 65102-0456

RE: Citizens Telephone Company and Green Hills Telephone Company / Halo Wireless, Inc.

Dear Mr. England:

This letter responds to your letter of December 30, 2010 to Halo Wireless, Inc. ("Halo") and addressed to me concerning Citizens Telephone Company ("Citizens") and Green Hills Telephone Company ("Green Hills"). I am sorry for the 25-day delay. The correspondence came in the middle of the holidays and did not receive immediate attention as a result. I was heavily engaged in other matters and have simply fallen behind on some matters, including this one.

Your letter asserts many things, and I will not address all of them. If I fail to expressly respond to an assertion of fact or law then please do not conclude I am concurring with your position; indeed, the converse is more likely to be the case. I will, however, address the four major issues that are raised by your December 30 letter: (1) whether Halo's traffic is "interMTA"; (2) the assertion Halo's traffic is "wireline" and "interLATA"; (3) the applicability of Missouri PSC rules; and, (4) the "request that Halo Wireless begin negotiations, pursuant to Section 251 of the Telecommunications Act, to establish appropriate interconnection arrangements (including reciprocal compensation) for the intraMTA wireless traffic that Halo is terminating[1] to Citizens and Green Hills."

Halo's CMRS traffic is 100% intraMTA. You for some reason take issue with the statement in the letter I sent you on December 22, 2010 that all of our outbound traffic is intraMTA. I obviously do not know what your switch records may say, but I will reiterate that 100% of our traffic is intraMTA. If your clients are basing their contention based on a comparison of calling and called numbers that is not how CMRS calls are rated. Our network is designed so that every call is associated with a customer unit that communicates with a transmitter site that is in the same MTA as the called party. That is the test for whether a call is intraMTA. All of the Halo traffic your clients have transported and terminated, and all of the traffic your users may have addressed to a Halo number, is intraMTA.

Halo's traffic is CMRS and thus is not "wireline." Your clients are not RBOCs. "LATA" rules do not apply. I do not know the basis for any assertion that the call is "wireline" or even

[1] I am somewhat confused by the characterization of Halo "terminating" traffic to your clients. Halo is not "terminating" traffic "to" your clients. Halo is originating traffic that is delivered to your clients through AT&T's tandem, and then your clients are "transporting and terminating" the calls. When a user of one of your clients dials a Halo number then your clients are originating traffic that is transited by AT&T and handed off to Halo for transport and termination. If your clients' user is required to dial 1+ to make a call addressed to Halo's user then the call may be handled by the user's IXC, but the call will still be intraMTA and thus subject to reciprocal compensation. This letter will use the correct terminology.

understand why you would make this claim. Halo is a CMRS provider and our traffic is CMRS. The "wireless" rules apply. Your clients are not legally inhibited by LATA boundaries, and neither is Halo. LATA boundaries are wholly irrelevant except to the extent they may impose some practical issues when an RBOC's network is involved.

Missouri PSC Rules do not apply but FCC rules do. Another reason for the delay in my response was that the Missouri PSC rules you cited had to be reviewed in an attempt to understand how a state commission's rules might possibly apply in this context. They do not, as a matter of law, given the specific situation at hand. Your clients are in the Kansas City MTA. Halo has a single transmitter for this MTA, and it is located in Junction City, Kansas. Therefore, even though all of the communications are intraMTA they are *also* interstate. Consequently, the Missouri PSC does not have any jurisdiction over Halo or the communications in issue and its rules cannot apply. Under Missouri law CMRS service is excluded from the definition of "telecommunications service" and a CMRS carrier therefore cannot be a "telecommunications company." *See*, section 386.020(52) and (54)(c). The state commission's rules simply cannot apply in this context.

We are certain that your clients will not take precipitous action, particularly since we have now replied to your December 30 letter. I will not tarry long on the topic of call blocking.[2] This is all interstate traffic and no state rules can apply. FCC regulations will apply to the extent there is truly a desire to block calls. If your clients and any other carrier working in concert with them want for some reason to block all concerned must comply with § 214(a) and (b) along with applicable FCC rules. The call blocking you describe fits the definition of "discontinuance, reduction, or impairment of service" in 47 C.F.R. § 63.60(b)(5) and requires a formal application under 63.62(b). There are other applicable requirements as well but I will not list them here.

Your clients are currently being compensated through a "bill and keep" arrangement. I must address an unstated premise in your letter. Your clients seem to think there is not a compensation mechanism in place for transport and termination. This is not correct. The FCC has made clear that in the absence of an agreement the compensation method for traffic subject to § 251(b)(5) is bill and keep. Neither side pays the other for transport and termination. That default method stays in place unless and until there is a contract that provides for some other compensation scheme.

Your request for negotiations. It is apparent that your clients and you both in fact recognize the current default bill and keep compensation mechanism and fully understand that this default can only be changed through a contract that implements some other mechanism, because your letter asks that the parties negotiate to achieve a contract. But we do not know what your clients have in mind in terms of the various governing principles and procedures for obtaining a contract and your letter does not squarely fit how any of available vehicles work. The letter mentions "section 251" but there are multiple parts of § 251 that might apply and each has much different procedures and rules. Similarly, given that Halo is a CMRS provider there are also the independent substantive and procedural methods arising under § 332(c)(1)(B), which essentially applies § 201 and is enforced through § 208. Our problem is that your letter is wholly unclear as to which of the available mechanisms and processes you truly desire to use, and we believe your clients may misapprehend the substance and process that flows from each of them.

Halo is willing to discuss interconnection using § 251(a) as the vehicle. If your clients wish to supply a contract you have successfully negotiated using that approach we will review it and provide our thoughts. Section 251(a) is not implemented, however, through the negotiation and arbitration procedures in § 252. Nor is § 332(c)(1)(B). The FCC recognized the distinct

[2] Your letter mentions blocking as part of the allegations concerning "interLATA wireline" traffic. I have already explained there is no such traffic.

processes a few years ago in the *Order on Reconsideration, In the Matter of CoreComm Communications, Inc., and Z-Tel Communications, Inc. v. SBC Communications Inc., et al*, File No. EB-01-MD-017, FCC 04-106, ¶ 18 and note 44, 19 FCC Rcd 8447 (rel. May 2004):

> 18. Neither the general interconnection obligation of section 251(a) nor the interconnection obligation arising under section 332 is implemented through the negotiation and arbitration scheme of section 252.[note 44]
>
> [Note 44] Section 251(c) obligates incumbent LECs "to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection [*i.e.*, subsection (c)]." 47 U.S.C. § 251(c)(1). It does not require such negotiation with respect to section 251(a). Similarly, section 252(a)(1), 47 U.S.C. § 252(a)(1), permits ILECs to negotiate agreements "without regard to the standards set forth in subsections (b) and (c) of section 251," but does not mention subsection 251(a). Section 332(c)(1)(B) requires interconnection when the Commission finds such action necessary or desirable in the public interest. *See* 47 U.S.C. § 332(c)(1)(B) (providing that, upon reasonable request of a CMRS provider, the Commission shall order interconnection pursuant to section 201.). There is, again, no mention of the section 251/252 negotiation process.

Your letter also mentions "reciprocal compensation" – which is governed by § 251(b)(5). That section applies only to LECs and Halo is not an LEC and thus Halo is not directly covered by that provision although we have the right to choose to invoke §§ 251 and 252, become a requesting carrier and then require an ILEC to comply with whatever §§ 251/252 duties the ILEC may have.[3] The FCC, however, has exercised its powers under § 332(c)(1)(B) (which in turn relies on and applies § 201) to require that CMRS providers and LECs "shall comply with principles of mutual compensation." LECs "shall pay reasonable compensation to a commercial mobile radio service provider in connection with terminating traffic that originates on facilities of the local exchange carrier" and CMRS providers "shall pay reasonable compensation to a local exchange carrier in connection with terminating traffic that originates on the facilities of the commercial mobile radio service provider." According to the FCC, LECs and CMRS providers "shall also comply with applicable provisions of part 51 of [47 C.F.R.]. *See* 47 C.F.R. § 20.11(b) and (c). This means that the FCC has exercised its § 332 powers to apply the same compensation principles for CMRS-LEC traffic that applies to LEC-LEC traffic under § 251(b)(5).[4] If your clients wish to negotiate terms in the context of § 332(c)(1)(B) of the Act (again, applying § 201) and follow these parts of the rule, then Halo will do so. Should the parties not reach a voluntary agreement, then any disputes will and must be resolved by the filing of a complaint at the FCC under § 208 of the Communications Act. *See* 47 C.F.R. § 20.11(a).

---

[3] *See Local Competition Order* ¶ 1008. Although your clients have § 251(b)(5) duties they are exempt from the § 251(c)(1) duty to negotiate in good faith to implement that duty on account of § 251(f). And for so long as your clients are exempt they cannot be subjected to a § 252 arbitration. One cannot fairly assert that an RLEC is immune from § 251(c) duties and from a § 252 arbitration because of the § 251(f) rural exemption but it can compel a competing carrier to state level arbitration under § 252 and still maintain the rural exemption.

[4] This result does not mean that CMRS providers directly have § 251(b)(5) obligations. The FCC requires LECs to enter § 251(b)(5) arrangements with a CMRS provider that invokes § 252 and becomes a "requesting carrier" under § 252. Section 251(b)(5) does not otherwise directly bind CMRS providers since they are not LECs. CMRS and LECs, however, have had "mutual compensation" obligations since at least 1994. In the *Local Competition Order* the FCC exercised its separate and independent § 332 powers to impose § 251(b)(5)-like duties on CMRS in § 20.11 by incorporating part 51 rules through 20.11(c). In 2005 as part of its *T-Mobile* decision the FCC again used its § 332 powers to require CMRS providers to use § 252 procedures and to submit to state arbitration upon proper request by an ILEC by promulgating the amendment to the rules codified in § 20.11(e).

The FCC a few years ago gave ILECs the additional option of invoking "the negotiation and arbitration procedures contained in section 252 of the Act." *See* 47 C.F.R. § 20.11(e). When an ILEC does what is required by the rule to exercise this option the CMRS provider "receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission." You could not have intended to use this procedure. The letter mentions only § 251, and does not invoke § 252 arbitration procedures. Nor does it request that Halo "submit to arbitration by the state commission." If I am incorrect in this regard, please send Halo a request that actually complies with the rule.

Should your clients choose this route[5] Halo would, of course, then follow the procedures in § 252 and the parties would have a 135 day window for negotiations. During those negotiations, our starting point would naturally be for full and complete implementation of §§ 251(b)(5), including the cost standards in § 252(d).[6] Halo will desire direct interconnection and will apply § 251(c)(2) as well as, again, § 252(d)(1). Halo's wireless network is 4G and we use Wi-Max, so we will be seeking IP-based interconnection rather than the more traditional circuit-switched interfaces and signaling. Transport and termination pricing will follow § 252(d)(2). We will also be interested in *inter alia*, resale (§ 251(c)(4)), collocation (§ 251(c)(6)), and structure access terms (§ 251(b)(4), invoking and applying § 224), and we will insist on faithful application of all the standards established in § 252 along with the FCC's implementing rules.

In order to reasonably assess any § 252 interconnection terms you may propose if you choose to proceed in that context we will request that your clients provide cost studies using TELRIC principles that support all of their proposed pricing for interconnection, traffic exchange, and collocation. We will seek studies reflecting your clients' claimed avoided cost for resale purposes. We will request the studies that will support your clients' proposed prices and terms for access to poles, conduits and rights of way. If your clients decide to operate in the context of a § 252 negotiation then 47 C.F.R. § 51.031 applies and Halo will request the costing information identified above and your clients must provide it under 51.301(c)(8)(i) and (ii).

Although Halo reserves all of its rights, including perhaps at some point taking recourse to § 252(i) or even becoming a requesting carrier, we are presently satisfied with the default bill and keep arrangement. Apparently, your clients are not. Halo will of course comply with federal law and therefore we will discuss § 251(a) interconnection terms, we will proceed under the FCC process[7] that applied prior to the amendment to 47 C.F.R. § 20.11 that gave ILECs the option of proceeding under § 252, or – if you choose to waive any § 251(f) exemptions and request use of § 252 procedures and file a compliant request that properly invokes it – we will follow § 20.11(e). But at this point we cannot discern which of the alternatives you prefer.

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[5] Lest there be any confusion, Halo has not invoked § 252 and is not a "requesting carrier" at this time. Nor is Halo in any way making a *bona fide* request under § 251(f)(1)(B). Your clients are the ones attempting in some as-yet unknown fashion to change the *status quo* arrangements and mechanisms in place.

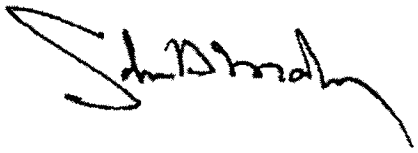
[6] By choosing to use § 252 processes your clients would necessarily be embracing § 251(c) since § 252 is entirely dedicated to implementation of § 251(b) and (c) and it cannot be used for solely § 251(a) interconnection related negotiations. Therefore any decision to take the option in 47 C.F.R. § 20.11(e) and invoke § 252 procedures would have to mean your clients are waiving any exemptions they may have under § 251(f).

[7] States have traditionally retained some jurisdiction to initially set CMRS-LEC compensation rates for intrastate traffic, as the FCC recently observed in *North County*. In our case, however, there is no intrastate traffic. It is all interstate. Thus the only option would be a complaint under § 208 and then the FCC would directly apply its § 201/332 jurisdiction.

I look forward to your response that more clearly states precisely what it is your clients seek. Please let me know if you have any questions.

Thank you.

Sincerely,



John Marks
General Counsel
jmarks@halowireless.com

Halo wireless

3437 W. 7th Street, Suite 127, Fort Worth, TX 76107

January 24, 2011

W.R. England II
Brydon, Swearengen & England
312 East Capitol Ave
P.O. Box 456
Jefferson City, Missouri 65102-0456

RE: Citizens Telephone Company and Green Hills Telephone Company / Halo Wireless, Inc.

Dear Mr. England:

This letter responds to your letter of December 30, 2010 to Halo Wireless, Inc. ("Halo") and addressed to me concerning Citizens Telephone Company ("Citizens") and Green Hills Telephone Company ("Green Hills"). I am sorry for the 25-day delay. The correspondence came in the middle of the holidays and did not receive immediate attention as a result. I was heavily engaged in other matters and have simply fallen behind on some matters, including this one.

Your letter asserts many things, and I will not address all of them. If I fail to expressly respond to an assertion of fact or law then please do not conclude I am concurring with your position; indeed, the converse is more likely to be the case. I will, however, address the four major issues that are raised by your December 30 letter: (1) whether Halo's traffic is "interMTA"; (2) the assertion Halo's traffic is "wireline" and "interLATA"; (3) the applicability of Missouri PSC rules; and, (4) the "request that Halo Wireless begin negotiations, pursuant to Section 251 of the Telecommunications Act, to establish appropriate interconnection arrangements (including reciprocal compensation) for the intraMTA wireless traffic that Halo is terminating[1] to Citizens and Green Hills."

Halo's CMRS traffic is 100% intraMTA. You for some reason take issue with the statement in the letter I sent you on December 22, 2010 that all of our outbound traffic is intraMTA. I obviously do not know what your switch records may say, but I will reiterate that 100% of our traffic is intraMTA. If your clients are basing their contention based on a comparison of calling and called numbers that is not how CMRS calls are rated. Our network is designed so that every call is associated with a customer unit that communicates with a transmitter site that is in the same MTA as the called party. That is the test for whether a call is intraMTA. All of the Halo traffic your clients have transported and terminated, and all of the traffic your users may have addressed to a Halo number, is intraMTA.

Halo's traffic is CMRS and thus is not "wireline." Your clients are not RBOCs. "LATA" rules do not apply. I do not know the basis for any assertion that the call is "wireline" or even

[1] I am somewhat confused by the characterization of Halo "terminating" traffic to your clients. Halo is not "terminating" traffic "to" your clients. Halo is originating traffic that is delivered to your clients through AT&T's tandem, and then your clients are "transporting and terminating" the calls. When a user of one of your clients dials a Halo number then your clients are originating traffic that is transited by AT&T and handed off to Halo for transport and termination. If your clients' user is required to dial 1+ to make a call addressed to Halo's user then the call may be handled by the user's IXC, but the call will still be intraMTA and thus subject to reciprocal compensation. This letter will use the correct terminology.

understand why you would make this claim. Halo is a CMRS provider and our traffic is CMRS. The "wireless" rules apply. Your clients are not legally inhibited by LATA boundaries, and neither is Halo. LATA boundaries are wholly irrelevant except to the extent they may impose some practical issues when an RBOC's network is involved.

Missouri PSC Rules do not apply but FCC rules do. Another reason for the delay in my response was that the Missouri PSC rules you cited had to be reviewed in an attempt to understand how a state commission's rules might possibly apply in this context. They do not, as a matter of law, given the specific situation at hand. Your clients are in the Kansas City MTA. Halo has a single transmitter for this MTA, and it is located in Junction City, Kansas. Therefore, even though all of the communications are intraMTA they are *also* interstate. Consequently, the Missouri PSC does not have any jurisdiction over Halo or the communications in issue and its rules cannot apply. Under Missouri law CMRS service is excluded from the definition of "telecommunications service" and a CMRS carrier therefore cannot be a "telecommunications company." *See*, section 386.020(52) and (54)(c). The state commission's rules simply cannot apply in this context.

We are certain that your clients will not take precipitous action, particularly since we have now replied to your December 30 letter. I will not tarry long on the topic of call blocking.[2] This is all interstate traffic and no state rules can apply. FCC regulations will apply to the extent there is truly a desire to block calls. If your clients and any other carrier working in concert with them want for some reason to block all concerned must comply with § 214(a) and (b) along with applicable FCC rules. The call blocking you describe fits the definition of "discontinuance, reduction, or impairment of service" in 47 C.F.R. § 63.60(b)(5) and requires a formal application under 63.62(b). There are other applicable requirements as well but I will not list them here.

Your clients are currently being compensated through a "bill and keep" arrangement. I must address an unstated premise in your letter. Your clients seem to think there is not a compensation mechanism in place for transport and termination. This is not correct. The FCC has made clear that in the absence of an agreement the compensation method for traffic subject to § 251(b)(5) is bill and keep. Neither side pays the other for transport and termination. That default method stays in place unless and until there is a contract that provides for some other compensation scheme.

Your request for negotiations. It is apparent that your clients and you both in fact recognize the current default bill and keep compensation mechanism and fully understand that this default can only be changed through a contract that implements some other mechanism, because your letter asks that the parties negotiate to achieve a contract. But we do not know what your clients have in mind in terms of the various governing principles and procedures for obtaining a contract and your letter does not squarely fit how any of available vehicles work. The letter mentions "section 251" but there are multiple parts of § 251 that might apply and each has much different procedures and rules. Similarly, given that Halo is a CMRS provider there are also the independent substantive and procedural methods arising under § 332(c)(1)(B), which essentially applies § 201 and is enforced through § 208. Our problem is that your letter is wholly unclear as to which of the available mechanisms and processes you truly desire to use, and we believe your clients may misapprehend the substance and process that flows from each of them.

Halo is willing to discuss interconnection using § 251(a) as the vehicle. If your clients wish to supply a contract you have successfully negotiated using that approach we will review it and provide our thoughts. Section 251(a) is not implemented, however, through the negotiation and arbitration procedures in § 252. Nor is § 332(c)(1)(B). The FCC recognized the distinct

[2] Your letter mentions blocking as part of the allegations concerning "interLATA wireline" traffic. I have already explained there is no such traffic.

processes a few years ago in the *Order on Reconsideration, In the Matter of CoreComm Communications, Inc., and Z-Tel Communications, Inc. v. SBC Communications Inc., et al*, File No. EB-01-MD-017, FCC 04-106, ¶ 18 and note 44, 19 FCC Rcd 8447 (rel. May 2004):

> 18. Neither the general interconnection obligation of section 251(a) nor the interconnection obligation arising under section 332 is implemented through the negotiation and arbitration scheme of section 252.[note 44]
>
> [Note 44] Section 251(c) obligates incumbent LECs "to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection [*i.e.*, subsection (c)]." 47 U.S.C. § 251(c)(1). It does not require such negotiation with respect to section 251(a). Similarly, section 252(a)(1), 47 U.S.C. § 252(a)(1), permits ILECs to negotiate agreements "without regard to the standards set forth in subsections (b) and (c) of section 251," but does not mention subsection 251(a). Section 332(c)(1)(B) requires interconnection when the Commission finds such action necessary or desirable in the public interest. *See* 47 U.S.C. § 332(c)(1)(B) (providing that, upon reasonable request of a CMRS provider, the Commission shall order interconnection pursuant to section 201.). There is, again, no mention of the section 251/252 negotiation process.

Your letter also mentions "reciprocal compensation" – which is governed by § 251(b)(5). That section applies only to LECs and Halo is not an LEC and thus Halo is not directly covered by that provision although we have the right to choose to invoke §§ 251 and 252, become a requesting carrier and then require an ILEC to comply with whatever §§ 251/252 duties the ILEC may have.[3] The FCC, however, has exercised its powers under § 332(c)(1)(B) (which in turn relies on and applies § 201) to require that CMRS providers and LECs "shall comply with principles of mutual compensation." LECs "shall pay reasonable compensation to a commercial mobile radio service provider in connection with terminating traffic that originates on facilities of the local exchange carrier" and CMRS providers "shall pay reasonable compensation to a local exchange carrier in connection with terminating traffic that originates on the facilities of the commercial mobile radio service provider." According to the FCC, LECs and CMRS providers "shall also comply with applicable provisions of part 51 of [47 C.F.R.]. *See* 47 C.F.R. § 20.11(b) and (c). This means that the FCC has exercised its § 332 powers to apply the same compensation principles for CMRS-LEC traffic that applies to LEC-LEC traffic under § 251(b)(5).[4] If your clients wish to negotiate terms in the context of § 332(c)(1)(B) of the Act (again, applying § 201) and follow these parts of the rule, then Halo will do so. Should the parties not reach a voluntary agreement, then any disputes will and must be resolved by the filing of a complaint at the FCC under § 208 of the Communications Act. *See* 47 C.F.R. § 20.11(a).

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[3] *See Local Competition Order* ¶ 1008. Although your clients have § 251(b)(5) duties they are exempt from the § 251(c)(1) duty to negotiate in good faith to implement that duty on account of § 251(f). And for so long as your clients are exempt they cannot be subjected to a § 252 arbitration. One cannot fairly assert that an RLEC is immune from § 251(c) duties and from a § 252 arbitration because of the § 251(f) rural exemption but it can compel a competing carrier to state level arbitration under § 252 and still maintain the rural exemption.

[4] This result does not mean that CMRS providers directly have § 251(b)(5) obligations. The FCC requires LECs to enter § 251(b)(5) arrangements with a CMRS provider that invokes § 252 and becomes a "requesting carrier" under § 252. Section 251(b)(5) does not otherwise directly bind CMRS providers since they are not LECs. CMRS and LECs, however, have had "mutual compensation" obligations since at least 1994. In the *Local Competition Order* the FCC exercised its separate and independent § 332 powers to impose § 251(b)(5)-like duties on CMRS in § 20.11 by incorporating part 51 rules through 20.11(c). In 2005 as part of its *T-Mobile* decision the FCC again used its § 332 powers to require CMRS providers to use § 252 procedures and to submit to state arbitration upon proper request by an ILEC by promulgating the amendment to the rules codified in § 20.11(e).

The FCC a few years ago gave ILECs the additional option of invoking "the negotiation and arbitration procedures contained in section 252 of the Act." *See* 47 C.F.R. § 20.11(e). When an ILEC does what is required by the rule to exercise this option the CMRS provider "receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission." You could not have intended to use this procedure. The letter mentions only § 251, and does not invoke § 252 arbitration procedures. Nor does it request that Halo "submit to arbitration by the state commission." If I am incorrect in this regard, please send Halo a request that actually complies with the rule.

Should your clients choose this route[5] Halo would, of course, then follow the procedures in § 252 and the parties would have a 135 day window for negotiations. During those negotiations, our starting point would naturally be for full and complete implementation of §§ 251(b)(5), including the cost standards in § 252(d).[6] Halo will desire direct interconnection and will apply § 251(c)(2) as well as, again, § 252(d)(1). Halo's wireless network is 4G and we use Wi-Max, so we will be seeking IP-based interconnection rather than the more traditional circuit-switched interfaces and signaling. Transport and termination pricing will follow § 252(d)(2). We will also be interested in *inter alia*, resale (§ 251(c)(4)), collocation (§ 251(c)(6)), and structure access terms (§ 251(b)(4), invoking and applying § 224), and we will insist on faithful application of all the standards established in § 252 along with the FCC's implementing rules.

In order to reasonably assess any § 252 interconnection terms you may propose if you choose to proceed in that context we will request that your clients provide cost studies using TELRIC principles that support all of their proposed pricing for interconnection, traffic exchange, and collocation. We will seek studies reflecting your clients' claimed avoided cost for resale purposes. We will request the studies that will support your clients' proposed prices and terms for access to poles, conduits and rights of way. If your clients decide to operate in the context of a § 252 negotiation then 47 C.F.R. § 51.031 applies and Halo will request the costing information identified above and your clients must provide it under 51.301(c)(8)(i) and (ii).

Although Halo reserves all of its rights, including perhaps at some point taking recourse to § 252(i) or even becoming a requesting carrier, we are presently satisfied with the default bill and keep arrangement. Apparently, your clients are not. Halo will of course comply with federal law and therefore we will discuss § 251(a) interconnection terms, we will proceed under the FCC process[7] that applied prior to the amendment to 47 C.F.R. § 20.11 that gave ILECs the option of proceeding under § 252, or – if you choose to waive any § 251(f) exemptions and request use of § 252 procedures and file a compliant request that properly invokes it – we will follow § 20.11(e). But at this point we cannot discern which of the alternatives you prefer.

---

[5] Lest there be any confusion, Halo has not invoked § 252 and is not a "requesting carrier" at this time. Nor is Halo in any way making a *bona fide* request under § 251(f)(1)(B). Your clients are the ones attempting in some as-yet unknown fashion to change the *status quo* arrangements and mechanisms in place.

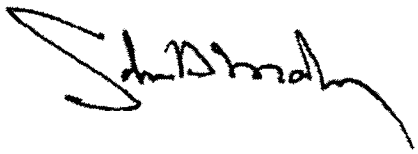
[6] By choosing to use § 252 processes your clients would necessarily be embracing § 251(c) since § 252 is entirely dedicated to implementation of § 251(b) and (c) and it cannot be used for solely § 251(a) interconnection related negotiations. Therefore any decision to take the option in 47 C.F.R. § 20.11(e) and invoke § 252 procedures would have to mean your clients are waiving any exemptions they may have under § 251(f).

[7] States have traditionally retained some jurisdiction to initially set CMRS-LEC compensation rates for intrastate traffic, as the FCC recently observed in *North County*. In our case, however, there is no intrastate traffic. It is all interstate. Thus the only option would be a complaint under § 208 and then the FCC would directly apply its § 201/332 jurisdiction.

I look forward to your response that more clearly states precisely what it is your clients seek. Please let me know if you have any questions.

Thank you.

Sincerely,



John Marks
General Counsel
jmarks@halowireless.com

Halo wireless

3437 W. 7th Street, Suite 127, Fort Worth, TX 76107

February 14, 2011

W.R. England II
Brydon, Swearengen & England
312 East Capitol Ave
P.O. Box 456
Jefferson City, Missouri 65102-0456

RE: Your letter dated February 9, 2011

Dear Mr. England:

I received your letter dated February 9, 2011. This is our response.

Your letter reflects a misunderstanding of both § 252 of the federal Act and the FCC's rules. Section 252(a)(1) does not contemplate that an ILEC will or can be a requesting carrier. Nor does any other part of § 252 or even § 251. ILECs cannot initiate the § 252 process. For that reason Halo does not have any duty to begin negotiations if and to the extent your clients are relying solely on § 252. Similarly § 332(c)(1)(B) does not contemplate that an ILEC can request interconnection with a CMRS provider. For that reason Halo does not have any duty to begin negotiations if and to the extent your clients are relying on § 332(c)(1)(B).

Even though Halo has no duty if and to the extent your clients are relying on §§ 251, 252 or 332(c)(1)(b) we are willing to negotiate with them. But any such negotiations will ***not*** occur in the context of § 252, and those processes will not apply. Nor will either party have recourse to the state commission if no agreement can be reached through negotiations.

Your letter says that your clients are attempting to implement rights given to ILECs in the FCC's Declaratory Ruling and Report and Order, *In the Matter of Developing a Unified Intercarrier Compensation Regime, T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs*, CC Docket 01-92, FCC 05-42, 20 FCC Rcd 4855 (2005). That FCC decision resulted in promulgation of an amendment to 47 C.F.R. § 20.11 by adding subsection (e), and that is the only source of any authority for an ILEC to demand negotiations with CMRS providers. If the ILEC properly implements § 20.11(e) then the ILEC can "invoke the negotiation and arbitration procedures contained in section 252 of the Act." If the ILEC properly invokes § 20.11(e) then the CMRS provider has the duty to negotiate in good faith. If the ILEC requests, the CMRS provider must "submit to arbitration by the state commission."

It appears, however, that you have not actually read that rule. For your convenience I set it out in full:

> (e) An incumbent local exchange carrier may request interconnection from a commercial mobile radio service provider and invoke the negotiation and arbitration procedures contained in section 252 of the Act. A commercial mobile radio service provider receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission.

Once a request for interconnection is made, the interim transport and termination pricing described in § 51.715 of this chapter shall apply.

The rule is straightforward. It has three parts and each part must be expressly invoked before there is any duty imposed on the CMRS provider. In order to properly invoke § 20.11(e) the ILEC must "request interconnection." You have now written us twice, and even after I advised you in my January 24, 2011 letter that you did not "request interconnection" you still failed to do so. You have not requested interconnection, and that is a prerequisite to proper invocation of § 20.11(e). Further, you must also "invoke the negotiation and arbitration procedures contained in section 252." Your first letter did not mention § 252; it referenced § 251. Your recent letter refers in one place to § 251, but finally does contain a citation to § 252. I will therefore acknowledge that you have now done one of the two things the rule requires an ILEC to do before the CMRS provider has the duty to negotiate. When and if your clients "request interconnection" you will have finally done what the rule requires to at least partially invoke § 20.11(e).

There is a separate and independent third part, however, which your letters also have not done even though my response to your mentioned it as well. Under the rule the ILEC must expressly request the CMRS provider to submit to state-level arbitration. When the request is made the CMRS provider must so submit. But submission is not an automatic thing. There must be a request, and to date your clients have not made that request.

I will summarize: when your clients "request interconnection" with Halo you will have finally done what the first sentence in 20.11(e) requires. When your client actually requests that Halo submit to state-level arbitration then we will. Your communications have not done either of these things. Therefore no clock is ticking and if you were to file an arbitration at the state commission without requesting that Halo submit then the state commission will not have jurisdiction.

If and when you comply with the rule's requirements, the clock will begin. Section 252(a)(1) allows the two carriers to "negotiate and enter into a binding agreement ... without regard to the standards set forth in subsections (b) and (c) of section 251." The provision is voluntary, however. Our present intent is to not voluntarily negotiate outside of subsections (b) *or* (c). Rather, we will insist on complete adherence to the standards for both, and nothing in this letter or my January 24, 2011 letter should be taken as any indication of a willingness to stray outside those boundaries. The only matters we will negotiate, and therefore the only "open issues" there might ever be for a state commission to arbitrate, will be implementation of <u>your clients'</u> duties under subsections (b) ***and*** (c).[1] An ILEC is "clearly free to refuse to negotiate any issues other than those it has a duty to negotiate under the Act," *See CoServ, LLC v. Southwestern Bell*, 350 F.3d 482, 488 (5th Cir., 2003). Certainly a non-LEC CMRS carrier is equally free to refuse to negotiate any issue other than implementation of the ILEC's subsection (b) and (c) duties and § 20.11(e) does not purport to require that the CMRS provider do more than the ILEC receiving a § 252 request must do.

Therefore, if your clients choose to fully invoke § 20.11(e) and finally do the things the rule says must be done, the resulting negotiations will not involve § 251(a), or any other matter. We will enter good faith negotiations to implement your clients' duties under § 251(b)(1) – (5). Since your clients will have "requested interconnection" and since your clients will have been the ones that invoked § 252 processes they will have necessarily waived any § 251(f) exemption. We will engage in good faith negotiations to implement your clients new-found § 251(c)(2)-(6) duties. Section 252 is exclusively devoted to those subsections, and does not even mention §

[1] Halo is not an LEC and does not have any duties under either of those subsections.

251(a), so that will not be a part of the negotiations. We will insist on strict adherence to the standards for § 251(b) and (c) set out in § 252(d) and then of course the FCC's Part 51 rules.

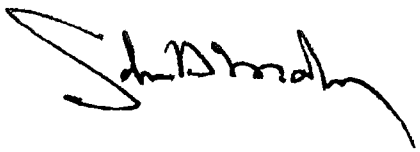
Further, as I indicated to you in my January 24, 2011 letter, Halo will seek direct interconnection and we will propose to use IP-based interconnection rather than the more traditional circuit-switched interfaces and signaling. I will not repeat the list of information requests we will have, but we will seek that information.

The "simple" answer to your "simple" question is yes. Halo will negotiate. I advised you that we were prepared to do so in my January 24 letter. But in case it was not sufficiently clear I will say it again. We will negotiate under § 251(a), but will not do so in the § 252 context. If your clients ever do what § 20.11(e) requires then the clock will start and we will comply with that rule. Then, however, we will be operating in the § 252 context and any negotiations (and therefore the open issues) will be purely limited to implementing your clients' duties under § 251(b) and (c), by applying the standards set out in § 252(d) and following the FCC's Part 51 rules.

The choice is yours.

Thank you.

Sincerely,



John Marks
General Counsel
jmarks@halowireless.com

Halo wireless

3437 W. 7th Street, Suite 127, Fort Worth, TX 76107

February 23, 2011

W.R. England II
Brydon, Swearengen & England
312 East Capitol Ave
P.O. Box 456
Jefferson City, Missouri 65102-0456

RE: Your letter dated February 17, 2011 and styled "Request for Interconnection & Compensation Arrangements"

Dear Mr. England:

Halo acknowledges receipt of correspondence from you on behalf of a host of entities that claim to be LECs dated December 30, 2010, January 26, 2011, January 27, 2010, and February 17, 2011. Your letters contain a series of assertions that I would like to address individually. The first relates to our willingness to negotiate interconnection arrangements in good faith.

You continue to misrepresent our responses and our willingness to negotiate. I have advised you on several occasions that Halo stands ready, willing and able to negotiate with any and all carriers under the Act, and will gladly work with your clients to obtain a written agreement under the Act, depending on the status of the carrier and the process that is invoked. You clients have two options.

§ 251(a) option: Halo will negotiate with any of your LEC clients under § 251(a). Nothing special is required for this, other than for you to advise that is the option your clients choose to exercise. However, § 251(a) negotiations will not use the negotiation and arbitration procedures in § 252 because that is not how § 251(a) is implemented.[1]

[1] *See Core Communications, Inc. v. SBC Communications, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 8447, ¶ 18 (2004) ("Neither the general interconnection obligation of section 251(a) nor the interconnection obligation arising under section 332 is implemented through the negotiation and arbitration scheme of section 252."); *Qwest Corp., Notice of Apparent Liability for Forfeiture*, 19 FCC Rcd 5169, ¶ 23 (2004) (defining the term "interconnection agreement" for purposes of section 252, as limited that term to those "agreement[s] relating to the duties outlined in sections 251(b) and (c)"); *see also, e.g., Qwest Corp. v. Public Utils. Comm'n of Colo.*, 479 F.3d

Or,

§ 252 option Halo will negotiate under § 252 when it applies. To make it apply your ILEC[2] clients must properly invoke FCC Rule 20.11(e). Your letters have not properly invoked FCC Rule 20.11(e), and contain material defects.

§ 252 option Proper invocation of the § 252 option. The option given to ILECs under FCC Rule 20.11(e) is there to be used. But the ILEC must properly and completely do what the rule says must be done. Again, as I've said before, there are three separate and individually required parts:

Part 1: The ILEC must "request interconnection." To date none of your letters have ever come close to "requesting interconnection." Your letters say your clients want "an agreement" and seek "negotiations" but none expressly request "interconnection." This is mandatory and Halo will not waive this point.

Part 2: The ILEC must invoke "the negotiation and arbitration procedures contained in section 252 of the Act." I agree that your letters have ***tried*** to do this, and your latest letter probably suffices. But your recent relative success on the second prong does not relieve you of having to meet the first. Section 20.11 could not be clearer. It says that if BOTH steps are taken the CMRS provider "***receiving a request for interconnection*** must negotiate in good faith." We will continue to stand patiently by until your clients send us a "request for interconnection." This is not just semantic incantations. As a lawyer, I am sure you understand the need to set out and meet each element of a cause of action.

Part 3: The ILEC must expressly request the CMRS provider to "submit to arbitration by the state commission." Your letters have never done that, even though I have now advised you on more than one occasion that this is required and still lacking. The state commission will not have jurisdiction over this matter or Halo unless and until Halo submits, and Halo is not required to submit until your ILEC clients make the request. The state commission is not the one that must or even can make this request and no state commission can trivially dispose of this jurisdictional prerequisite. Until each of your ILEC clients makes the formal request Halo has no duty to submit and we will not. If and when your clients request that Halo submit to the state commission's jurisdiction, then we will.

§ 252 option Your clients are the ones seeking to change the *status quo*. If they want to receive the benefits of the FCC rule they too have to follow the rule. We have

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1184, 1197 (10th Cir. 2007) ("[T]he interconnection agreements that result from arbitration necessarily include only the issues mandated by § 251(b) and (c).").

[2] Only ILECs may benefit from FCC Rule 20.11(e).Some of the entities listed in your February 17 letter, however, do not appear to be ILECs. For example, the letter lists "Fidelity Communications Services I," "Fidelity Communications Services II" and "Mark Twain Communications Company." We reviewed the FCC's web site at http://fjallfoss.fcc.gov/cgb/form499/499a.cfm, and those three hold out as "CAP/LEC" rather than "ILEC." If and when you submit any correspondence that attempts to invoke Rule 20.11(e) then please provide some evidence tending to show that every client of yours on whose behalf the notice is sent is an ILEC.

gone out of our way to advise you of the defects in your prior attempts, but we will not relieve you of your burden to comply with the rule's requirements. If and when any of your ILEC clients properly invoke FCC Rule 20.11(e), then we will comply with the rule and use the § 252 negotiations and arbitration process.

§ 252 option Any § 252 negotiations will be strictly limited to implementing your ILEC clients' § 251(b) and (c) duties, and only these duties. Halo has not agreed, and will not agree, to address anything other than your ILEC clients' § 251(b) and (c) duties if § 252 procedures are ever used. Despite your continued efforts to create additional open issues "without regard to the standards set forth in subsections (b) and (c) of section 251" we do not agree to broaden the open issues. Halo has the same right as the ILECs[3] to refuse to broaden the issues beyond § 251(b) and (c).[2]

There are a series of other claims in your February 17 letter that I would like to correct. You state that "Halo is sending traffic to AT&T tandems in Missouri over the LEC-to-LEC (or Feature Group C) network for ultimate termination to customers served by these LECs." You further claim that "Halo has no agreement with any of these LECs to terminate this traffic." Finally, you characterize Halo's traffic in a way we do not agree is proper when you claim your clients seek agreements "to establish appropriate interconnection agreements (including reciprocal compensation) for the local (i.e., intraMTA) wireless traffic that Halo Wireless is terminating to them."

With regard to your first contention, Halo is ***not*** sending traffic to AT&T tandems in Missouri "over the LEC-to-LEC (or Feature Group C) network." Halo is delivering traffic to AT&T via Type 2 interfaces. These interfaces are not "Feature Group C" interfaces and the exchange between Halo and AT&T are not occurring over any "LEC-to-LEC" or "Feature Group C" network." We have no knowledge or control over what AT&T does with the traffic after we hand it off to them. But as between Halo and AT&T, none of this is "LEC-to-LEC" or "Feature Group C."

Second, while it is true there is no written interconnection agreement in place, there is an arrangement: bill and keep. As long as bill and keep is in place, then no compensation is due from either party. Thus, your clients cannot claim they are not being paid amounts they are properly owed, for nothing is owed. If your clients want to change the *status quo,* then they must do what the law requires them to do to change the *status quo*. I have now told you at least three times how to do that.

Third, I reject use of the word "local" to describe any of the telecommunications at issue. "Local" is not a statutorily defined term and has nothing to do with LEC-CMRS traffic. The traffic Halo originates with your clients is all IntraMTA.

Fourth, Halo is not "terminating" traffic to any of your clients. Halo is originating traffic. Your clients transport and terminate that traffic.

Mr. England, we stand ready, willing and able to begin good faith negotiations with your clients once they have properly followed FCC rules and process. Please advise me when you are available for § 251(a) negotiations and we will line up Halo counsel and business representatives accordingly. If your ILEC clients want to try again to require the use of § 252 negotiation and

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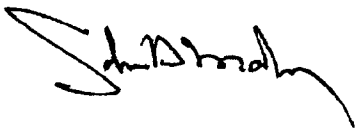
[3] *See CoServ, LLC v. Southwestern Bell*, 350 F.3d 482, 488 (5th Cir., 2003).

arbitration procedures they are free to do so and we will comply with FCC Rule 20.11(e) once it has been properly invoked.

Sincerely,



John Marks
General Counsel
jmarks@halowireless.com

Halo wireless

2351 W. Northwest Hwy, Suite 1204, Dallas, TX 75220

May 12, 2011

VIA EMAIL & FEDERAL EXPRESS

W.R. England II
Brydon, Swearengen & England
312 East Capitol Ave
P.O. Box 456
Jefferson City, Missouri 65102-0456

RE: BPS Telephone Company; Citizens Telephone Company; Craw-Kan Telephone Cooperative, Inc.; Ellington Telephone Co.; Farber Telephone Company; Fidelity Telephone Company; Goodman Telephone Company; Granby Telephone Company; Grand River Mutual Telephone Corporation; Green Hills Telephone Corporation; Holway Telephone Company; Iamo Telephone Corporation; Kingdom Telephone Company; KLM Telephone Company; Lathrop Telephone Company; Le-Ru Telephone Company; Mark Twain Rural Telephone Company; McDonald County Telephone Company; Miller Telephone Company; New Florence Telephone Company; New London Telephone Company; Orchard Farm Telephone Company; Oregon Farmers Mutual Telephone Company; Ozark Telephone Company; Peace Valley Telephone Company, Inc.; Rock Port Telephone Company; Seneca Telephone Company; Steelville Telephone Exchange, Inc.; Stoutland Telephone Company

Dear Mr. England:

Halo Wireless, Inc. has repeatedly informed you of our position that you and your ILEC clients have not properly invoked 47 C.F.R. § 20.11(e). Therefore, the formal "negotiation and arbitration procedures contained in section 252 of the act" cannot begin. In addition, we have advised you that, prior to any state commission filing, your ILEC clients must request that Halo "submit to arbitration by the state commission." Any failure to make this request to Halo means the state commission will lack both subject matter and *in personam* jurisdiction. We do not waive any rights or assertions in our previous correspondence, and we are prepared to assert and defend our positions in any appropriate or contested forum.

Although we maintain that Halo and the parties you represent are not operating in the § 252 context, we acknowledge that you and your clients disagree with us on this point. Despite our legal position, we have consistently expressed a willingness to negotiate over substance. Therefore, without waiver of our primary position, and to continue our good faith efforts to resolve our differences, we are providing a set of terms that implement your ILEC clients' § 251(b) and (c) duties. These terms are presented as a template at this point. When the process completes, an entity-specific execution document specific to each ILEC you represent will be prepared.

The attached Interconnection Agreement (ICA) document does not supply a complete set of terms. Halo requires carrier-specific cost and network information to devise and propose TELRIC-compliant prices along with technically feasible interconnection terms and requirements for each individual ILEC you represent. Assuming *arguendo* that we are within the § 252 process, your ILEC clients have the obligation to produce,[1] this data. Halo, again without waiver of our legal positions specifically requests the following information:

[1] *See* 47 C.F.R. § 51.301(c)(8)(i) and (ii).

1. Cost studies using TELRIC principles that support each of your ILEC clients' proposed prices for interconnection, traffic exchange, and collocation.

2. For resale, cost studies that reflect your ILEC clients' avoided cost, including the basis for the claims.

3. Cost Studies to support proposed prices and other miscellaneous data necessary to explain specific terms for access to poles, conduits and rights of way in the manner required by 47 C.F.R. § 51.031.

4. The extent to which your ILEC clients' various switches are able to support SIP and gateway capabilities or have IP-based capabilities through some other means.[2]

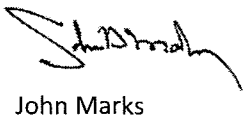
5. Information about each of your ILEC clients' networks to determine the best means by which Halo can establish a single point of interconnection within each network via direct IP connection.

6. Information related to Internet and IP capabilities and capacity, in and to, your ILEC clients' service areas.

Please advise when we should expect to receive comments to the attached template agreement, and provision of cost and network information. Should there be a need to discuss any of the foregoing, we will be glad to conduct a conference call with the appropriate legal and business representatives at a time and date convenient for both parties.

Thank you.

Sincerely,



John Marks
General Counsel
jmarks@halowireless.com

[2] Your clients have indicated a desire to change the *status quo* indirect interconnection/no compensation arrangements. To the extent there are negotiations over any change, then Halo has changes it will propose as well. One of those changes is to move to direct interconnection using IP. Halo's network is 4G, and uses Internet Protocol. Thus, Halo desires "IP"-based interconnection, and your clients must implement IP-based interconnection unless they can prove it is not technically feasible. The information requests are reasonably calculated to obtain necessary facts regarding capabilities, technical feasibility and, of course, costs.

Halo will require terms for § 251(c)(4) resale and § 251(c)(6) collocation as well as terms for structure access under §§ 224 and 251(b)(4). These terms cannot be drafted until _____ TELEPHONE COMPANY provides the previously requested cost and network information.

Halo will seek IP based interconnection terms rather than (or at least in addition to) legacy circuit-switched methods. The markups below do not completely reflect all required edits that will be necessary to implement this interconnection method. IP-based interconnection terms cannot be drafted until _____ TELEPHONE COMPANY provides necessary cost and network information and the parties discuss the matter.

INTERCONNECTION AGREEMENT

By and Between

HALO WIRELESS, INC.

and

_____ TELEPHONE COMPANY TELEPHONE COMPANY

In the State of

_____

INTERCONNECTION AGREEMENT

This Interconnection Agreement ("Agreement") is by and between _____ Telephone Company Telephone Company ("_____ TELEPHONE COMPANY") and Halo Wireless, Inc. ("HALO"). _____ TELEPHONE COMPANY and HALO are referred to individually as "Party" and together as "Parties" to this Agreement.

WHEREAS, _____ TELEPHONE COMPANY is an Incumbent Exchange Carrier ("ILEC") in the State of _____that provides telephone exchange service and exchange access;

WHEREAS, HALO is licensed by the Federal Communications Commission ("FCC") as a Commercial Mobile Radio Service Provider that provides telephone exchange service and exchange access;

WHEREAS, the Parties wish to put in place an arrangement for the transmission and routing of telephone exchange service and exchange access and for transport and termination of Telecommunications Traffic and Jointly Provided Access in accordance with the Act and FCC Rules;

WHEREAS, the Parties agree that there are only two traffic types: Telecommunications Traffic and Jointly Provided Exchange Access traffic.

WHEREAS, the parties have agreed to other terms relating to resale of telecommunications service that _____ TELEPHONE COMPANY provides at retail to subscribers who are not telecommunications carriers; collocation of equipment at _____ TELEPHONE COMPANY's premises that is necessary for Halo to interconnect; and access by Halo to poles, ducts, conduits, and rights-of-way of _____ TELEPHONE COMPANY on rates, terms, and conditions that are consistent with section 224.

WHEREAS, the Parties agree that their entry into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters related to the same types of arrangements covered in this Agreement;

WHEREAS, _____ TELEPHONE COMPANY in accordance with § 251(b) and (c) and § 252(d) of the Act and HALO have specific requirements, and the Parties intend that this Agreement meets these requirements;

WHEREAS, the parties mutually intend to implement terms and conditions that fully and without exception implement the standards in the Act and FCC rules, and are not in any way intending to "enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251" as allowed by § 252(a)(1) of the Act. Nor has either party agreed to negotiate terms without regard to such standards.

NOW, THEREFORE, in consideration of the foregoing and the undertakings contained herein, _____ TELEPHONE COMPANY and HALO agree as follows:

This Agreement sets forth the terms, conditions and prices under which the Parties agree to implement _____ TELEPHONE COMPANY's duties under § 251 and 252 of the Act.

Except as otherwise expressly provided for herein, this Agreement has no effect on the services either Party chooses to offer to its respective Customers, the rate levels or rate structures that either Party charges its Customers for services, or the manner in which either Party provisions or routes the services either Party provides to its respective Customers.

1.0 Definitions

Definitions of the terms used in this Agreement are listed below. The Parties agree that certain terms may be defined elsewhere in this Agreement, as well. Terms not defined herein but used herein will have the same meaning as in the Communications Act and/or FCC rules. Terms used in the singular will include the plural and vice-a-versa.

1.1 "Act" means the Communications Act of 1934 (47 U.S.C. Section 151 *et. seq.*), as amended.

1.2 "Base Station Site" is the location of radio transmitting and receiving facilities associated with CMRS service to a Customer. The Base Station will constitute the Halo origination and termination point, and may also be used as a point of interconnection to the landline network.

1.3 "Carrier" refers to a "telecommunications carrier" as defined in 47 U.S.C. § 153(44).

1.4 "Commercial Mobile Radio Service" or "CMRS" is defined in 47 U.S.C 332(d)(1).

1.5 "Commission" means the Public Utility Commission of _____ .

1.6 "Conversation Time" means the time consumed by a completed call, beginning when the terminating recording switch receives answer supervision, or its IP equivalent, and ending when a Party's switch, or its IP equivalent, receives sends a release message or, whichever occurs first. Conversation minutes will be summed for a billing period, and then rounded up to the next full minute.

1.7 "Customer" means an entity that subscribes to a Party's service as a customer. A "Customer" may be a "Carrier" or an "End User." Generally speaking, a Carrier Customer will be a user of Jointly Provided Access. As used herein, "Customer" does not include any of the Parties to this Agreement with respect to the fulfillment of duties under this Agreement.

1.8 "Direct Interconnection" means a direct physical Interconnection between _____ TELEPHONE COMPANY's network and HALO's network. Direct Interconnection will occur at a point within a _____ TELEPHONE COMPANY certificated service area.

1.9 "End Office Switch" is a _____ TELEPHONE COMPANY Class 5 switch that provides connections to lines or trunks.

1.10 "Exchange Access" is as defined at 47 U.S.C. § 153(16).

1.11 "FCC" means the Federal Communications Commission.

1.12 "Incumbent Exchange Carrier" or "Incumbent LEC" has the meaning given the term in the Act.

1.13 "Indirect Interconnection" refers to a network arrangement in which the networks of the Parties are connected through a third party carrier's switching and transport facilities.

1.14 "Indirect Traffic" is traffic, which is originated by one Party and terminated by the other Party using a third party carrier's switching and transport facilities.

1.15 "Interconnection" shall be as defined in 47 C.F.R. § 51.5.

1.16 "InterMTA Traffic" means all calls that originate in one MTA and terminate in another MTA.

1.17 "IntraMTA Traffic" means all calls that originate and terminate in the same MTA, regardless of whether a call is routed or handled by an intermediary third party Telecommunications Carrier, and without regard to the dialing pattern used by the Customer (*e.g.*, 7-digits, 10-digits, or "1+").

1.18 "Internet Protocol or "IP" is a packet-switched architecture, in which data containing a source address and destination address is handed over to a data link layer protocol, such as Ethernet, for the actual, physical transmission to the next node in a network path. IP is the primary network protocol used on the Internet.

1.19 "ISDN User Part" or "ISUP" is the functional part of the Signaling System No. 7 (SS7) protocol, i.e., the part that specifies the interexchange signaling procedures for the set up and tear down of trunk calls between networks for calls over Public Switched Telephone Networks.

1.20 "Jointly Provided Exchange Access" means the situation where both Parties are collaborating to provide Exchange Access to a third party IXC or access customer. One Party will be directly connected to the third party IXC or access customer and a Customer of the other Party is attempting to make a Telephone Toll Service call using the third party IXC, or the third party IXC is attempting to complete a Telephone Toll Service call to the Customer of the other Party.

1.21 "Local Exchange Carrier" or "LEC" has the meaning given the term in the Act.

1.22 "Major Trading Area" ("MTA") means Major Trading Area as defined by the FCC in 47 C.F.R § 24.202(a).

1.23 "Mobile Application Part" or "MAP" is an application layer set of call processing messages via SS7 protocol which provides for setup and control of wireless calls via the public switched telephone network. The Mobile Application Part is the application-layer protocol used to access the Home Location Register, Visitor Location Register, Mobile Switching Center, Equipment Identity Register, Authentication Centre, Short message service center and Serving Global Positioning Support Node."

1.24 "Mobile Switching Center" or "MSC" is a switching facility that performs the switching for calls among and between CMRS subscribers and subscribers in other networks, including those that are a part of the Public Switched Network.

1.25 Originating Point" and "Terminating Point." The originating or terminating point for _____ TELEPHONE COMPANY shall be the end office serving the calling or called party. The originating or terminating point for HALO shall be the base station site which services the Halo customer at the beginning of the call.

1.26 "Originating Line Information Parameter " or "OLIP" conveys information about the originator of a call through the signaling network.

1.27 "Party" means either HALO or _____ TELEPHONE COMPANY, and "Parties" means HALO and _____ TELEPHONE COMPANY.

1.28 "Point of Interconnection" or "POI" for Direct Interconnection means a physical location within _____ TELEPHONE COMPANY's network which establishes the technical interface and point(s) for operational division of responsibility and the location where each Party's financial responsibility for facilities begins and ends. For Indirect Interconnection, the POI will be the location where a terminating Party receives a call from the Tandem Provider.

1.29 "Private IP-Based Interconnection or Network" shall mean dedicated private IP access and transit service(s) establishing connectivity between the parties' respective IP networks.

1.30 "Public IP-Based Interconnection or Network" shall mean IP access and transit services establishing connectivity between the parties' respective IP networks where the parties rely on the public Internet for connectivity.

1.31 Public Switched Network" is as defined in 47 C.F.R. § 20.3

1.32 "Reciprocal Compensation" refers to charges related to traffic subject to § 251(b)(5) and established consistent with § 252(d)(2) of the Act.

1.33 "Session Initiation Protocol" or "SIP" is an open network peer-to-peer communications IP protocol commonly employed for Voice over IP (VoIP) signaling, that is designed to support the traditional calling features of telecommunications services.

1.34 "Short Message Peer-to-Peer Protocol" or "SMPP" is an open, industry standard protocol designed to provide a flexible data communications interface for transfer of short message service across servers and gateways in the SMS network.

1.35 "Short Message Service" or "SMS" is a communication service component of the wireless communication network using standardized communications protocols that allow the exchange of short text messages.

1.36 "Tandem" means a switching system that provides a concentration and distribution function for originating or terminating traffic between end offices, MSCs, and other tandems.

1.37 "Telecommunications" is as defined in Section 153(43) of the Act.

1.38 "Telecommunications Carrier" is as defined in Section 153(44) of the Act.

1.39 "Telecommunications Traffic" has the meaning set out in 47 C.F.R. § 51.701(b)(2).

1.40 "Telephone Exchange Service" is as defined in Section 153(47) of the Act.

1.41 "Telephone Toll Service" is as defined in Section 153(48) of the Act.

1.42 "Termination" is as defined at 47 C.F.R. § 51.701(d).

1.43 "Third Party Provider" shall mean any other telecommunications carrier, including, without limitation, interexchange carriers, independent telephone companies, or competitive LECs.

1.44 "Transiting Traffic" in this Agreement refers to Telecommunications Traffic that originates on one Party's network, transits a Tandem provider's network, and terminates on the other Party's network.

1.45 "Transport" is as defined in 47 C.F.R. § 51.701(c).

1.46 "Trunk Side" is the connection of a transmission path between two switching system.

1.47 "Voice over Internet Protocol" or "VoIP" is a general term for a family of transmission technologies for delivery of voice communications over IP networks such as the Internet or other packet-switched networks.

2.0 Scope

This Agreement sets forth the terms, conditions, and rates under which the _____ TELEPHONE COMPANY will fulfill its duties under §§ 251 and 252 of the Act.

2.1 HALO represents that it is a CMRS provider in MTA Number. _____ HALO'S NPA/NXXs are listed in Telcordia's Local Exchange Routing Guide ("LERG") for Operating Company Number(s) ("OCN") 429F in the State of _____.

2.2 TELEPHONE COMPANY represents that it is an Incumbent LEC and provides services to Customers in MTA Number _____. _____ TELEPHONE COMPANY's NPA/NXXs are listed in the LERG under OCN _____.

2.3 Each Party is responsible for testing, loading, programming and updating its own switches and network systems to recognize and route traffic to the other Party's assigned NXX codes at all times. Neither Party shall impose fees or charges on the other Party for such activities.

2.4 _____ TELEPHONE COMPANY shall provide dialing parity as required by § 251(b)(3) so as to permit its Customers within the MTA to dial the same number of digits to make a Telecommunications Traffic call as are dialed to make a Telephone Exchange Service call.

3.0 Interconnection of the Parties' Facilities

This Section describes the network architecture with which the Parties to this Agreement may Interconnect their respective networks for the transmission and routing of Telephone Exchange Service and Exchange Access.

3.1 Indirect Interconnection. Where Direct Interconnection has not been established the Parties may deliver Telecommunications Traffic originated on their networks through a Tandem provider. The originating Party is responsible for payment of any Tandem provider transit charges.

3.2 Direct Interconnection

3.2.1 Point of Interconnection. HALO will establish a single POI at a technically feasible point on _____ TELEPHONE COMPANY's network, including but not limited to the required minimal list of points stated at 47 C.F.R. § 51.305(a)(2).

3.2.2 Each Party shall be responsible for the facilities on its side of the POI. Either Party may, at their sole discretion, lease facilities from the other Party, as needed, to reach the POI. Prices applied for such leased facilities between the parties shall be TELRIC-based. Either Party may also lease facilities from third party providers in order to reach the POI.

3.2.3 HALO may elect to use IP-based technologies to establish Direct Interconnection with _____ TELEPHONE COMPANY. In that event, the terms related to POI above will still apply, with the addition of the option for Halo to elect either Public or Private IP-Based Direct Interconnection.

3.2.3.1 Public IP-Based Interconnection. If Halo elects to utilize Public IP-Based Direct Interconnection, each Party will provide the other Party with two (2) globally-unique public IP addresses; one (1) for

the delivery of Telecommunications Traffic and one (1) for the delivery of Jointly Provided Exchange Access. Each Party remains responsible for the facilities between the POI and each globally-unique public IP address it provides under this section.

3.2.3.2 Private IP-Based Interconnection. If Halo elects to utilize Private IP-Based Direct Interconnection, each Party will provide the other Party with two (2) locally-unique IP addresses; one (1) for the delivery of Telecommunications Traffic and one (1) for the delivery of Jointly Provided Exchange Access. These addresses may be either globally-unique public IP addresses or locally-significant private IP addresses, provided they are locally-unique at the POI. Each Party remains responsible for the facilities between the POI and each locally-unique IP address it provides under this section.

3.2.4 If HALO elects to use legacy SS7-based technologies to establish Direct Interconnection, the parties will establish 2-way trunks that connect the Parties' switching systems. Separate trunk groups will be established for (i) Telecommunications Traffic and (ii) meet-point trunks for Jointly Provided Exchange Access traffic. All SS7-based trunk groups shall be provisioned as two-way.

3.2.5 Regardless of the interconnection form that is employed, the same facilities may be used for both Telecommunications Traffic and Jointly Provided Exchange Access, with the traffic segregated by type as set forth above.

3.3 [RESERVED FOR MORE PHYSICAL INTERCONNECTION TERMS FOR BOTH SS7 AND IP; PENDING RECEIPT OF COST/NETWORK INFORMATION]

3.4 Technical Requirements and Standards

3.4.1 _____ TELEPHONE COMPANY will fulfill its duties under this Agreement at standards at least equal in quality and performance to those which _____ TELEPHONE COMPANY provides itself and others. HALO may request that _____ TELEPHONE COMPANY provide or fulfill a duty at a lesser quality.

3.4.2 Nothing in this Agreement will limit either Party's ability to modify its network, including, without limitation, the incorporation of new equipment, new software or otherwise provided, neither Party shall modify its network to the extent such modification will disrupt or degrade the other Party's use of the network. Each Party will provide the other Party reasonable written notice, of any such modifications to its network, which will materially impact the other Party's service. Each Party will be solely responsible, at its own expense, for the overall design of its telecommunications services and for any redesigning or rearrangement of its telecommunications services which may be required as a consequence of this Agreement, including, without limitation, changes in facilities, operations or procedures, minimum network protection criteria, or operating or maintenance characteristics of facilities.

3.4.3 If the parties agree to employ IP-based interconnection, the parties agree to adopt and use common industry technical requirements and standards,

including those relating to call flows, media management, signaling methods and protocols, routing algorithms, privacy types, codecs supported, among others.

4.0 Traffic Routing

4.1 The Parties agree that Telecommunications Traffic and Jointly Provided Exchange Access traffic will be routed consistent with industry guidelines (including those related to IP-based Interconnection), unless required by this Agreement or the Parties mutually agree to a different routing.

4.2 Signaling

4.2.1 Each Party will provide call control signaling in accordance with industry standards and applicable regulatory rules, including but not limited to 47 C.F.R. § 64.1601. Pending promulgation of final rules, the Parties will apply and use the proposed signaling rules set out in NPRM and FNPRM, *Connect America Fund et al.*, WC Docket Nos. 10-90 *et al.*, FCC 11-13, _ FCC Rcd. _ (Feb. 9, 2011) and published at 76 Fed. Reg. 11632 (March 2, 2011).

4.2.2 If the Parties connect using SS7-based technologies they will follow applicable industry standards including: ISDN User Part ("ISUP") for trunk signaling; Transaction Capabilities Application Part ("TCAP") for Common Channel Signaling (CCS)-based features; and, the Parties will mutually interwork the Mobile Application Part ("MAP") for, among other things, user authentication, roaming, and SMS functionality.

4.2.3 If the Parties connect using IP-based technologies they will follow applicable industry standards including Session Initiation Protocol ("SIP") for call control, signaling, and support of features. In addition, the Parties will mutually interwork the Short Message Peer-to-Peer Protocol ("SMPP") to support SMS functionality.

4.2.4 IP-based and/or SS7 call control related information shall be shared between the Parties at no charge to either Party.

5.0 Reciprocal Compensation

5.1 Rates - HALO and _____ TELEPHONE COMPANY shall reciprocally compensate one another for the transport and termination of Telecommunications Traffic at the prices specified in Appendix A.

5.2 Billing Increments – Billed minutes will be based upon Conversation Time (a) from actual usage recordings by the Parties, or (b) records provided by a Tandem provider.

6.0 Jointly Provided Exchange Access

6.1 The Parties will establish Meet Point Billing (MPB) arrangements for Jointly Provided Exchange Access in accordance with the MPB guidelines contained in the Ordering and Billing Forum's MECOD and MECAB documents as amended from time to time. Except as modified herein, MPB will be determined during joint network planning.

6.2 As detailed in the MECAB document, the Parties will exchange all information necessary to accurately, reliably and promptly bill third parties for Jointly Provided Exchange Access traffic handled by the Parties via the MPB arrangement. The

exchange of Access Usage Records (AURs) to accommodate meet point billing will be on a reciprocal, no charge basis. Each Party agrees to provide the other Party with AURs based upon mutually agreed upon intervals.

6.3 Billing via the MPB arrangement will be according to the multiple bill single tariff method. As described in the MECAB document each Party will render a bill for its portion of the service, using its own Exchange Access rates, to the Exchange Access Customer.

6.4 MPB will also apply to all jointly provided traffic bearing the 900 or toll free NPAs, (e.g., 800, 877, 866, and 888 NPAs or any other non-geographic NPAs) which may likewise be designated for such traffic. The Party that performs the SSP function (launches the query to the 800 database) will bill the 800 Service Provider for this function.

7.0 911/E911.

The Parties agree that this Agreement does not provide for the exchange of 911/E911 traffic.

8.0 HALO WILL PROPOSE RESALE TERMS AFTER RECEIPT OF THE PREVIOUSLY REQUESTED INFORMATION

9.0 HALO WILL PROPOSE STRUCTURE TERMS AFTER RECEIPT OF THE PREVIOUSLY REQUESTED INFORMATION

10.0 HALO WILL PROPOSE COLLOCATION TERMS AFTER RECEIPT OF THE PREVIOUSLY REQUESTED INFORMATION

11.0 Audits

11.1 The Parties will be responsible for the accuracy and quality of the data as submitted to the other Party. Either Party or its authorized representative may conduct an audit of the other Party's books and records pertaining to the services provided under this Agreement not more than once per twelve (12) month period to evaluate the other Party's accuracy of billing, data and invoicing in accordance with this Agreement.

11.2 Any audit will be performed as follows: (a) following at least sixty (60) business days prior written notice to the audited Party, (b) subject to the reasonable scheduling requirements and limitations of the audited Party, (c) at the auditing Party's sole expense, (d) of a reasonable scope and duration, (3) in a manner so as not to interfere with the audited Party's business operations, and (f) in compliance with the audited Party's security rules.

11.3 Adjustments, credits or payments shall be made and corrective action taken shall commence within thirty (30) Days from the requesting Party's receipt of the final audit report to compensate for any errors or omissions which are disclosed by such audit and are agreed to by the Parties.

11.4 The review will consist of an examination and verification of data involving records, systems, procedures and other information related to the services performed by the Party as related to settlement charges or payments made in connection with this Agreement. Each Party, whether or not in connection with an on-site verification review, shall maintain reasonable records for a minimum of twenty-four (24) months and provide the other Party with reasonable access to such

information as is necessary to determine amounts receivable or payable under this Agreement.

11.5 Either Party's right to access information for verification review purposes is limited to data not in excess of twenty-four (24) months in age. Once specific data has been reviewed and verified, it is unavailable for future reviews. Any items not reconciled at the end of a review will, however, be subject to a follow-up review effort. Any retroactive adjustments required subsequent to previously reviewed and verified data will also be subject to follow-up review. Information of the Party involved with a verification review shall be subject to the confidentiality provisions of this Agreement.

11.6 The Party requesting a verification review shall fully bear its costs associated with conducting a review. The Party being reviewed will provide access to required information, as outlined in this Section, at no charge to the reviewing Party.

12.0 Billing

12.1 Billing shall be based on terminating usage recordings where technically possible. For arrangements involving a Tandem provider, billing shall be based on the information provided by the Tandem provider, subject to each Party's right to challenge, correct, audit and amend billings within 12 months if and to the extent that the Tandem provider's records prove to be unreliable. If either Party asserts that the Tandem provider's records are not reliable, the challenging Party shall provide notice to the other Party and each Party shall cooperate using any available means to verify the Tandem provider's records.

For Billing invoices or questions:

HALO	_____ TELEPHONE COMPANY
OCN 429F Halo Wireless, Inc. Attn: Jason Menard 2351 West Northwest Hwy Site 1204 Dallas, TX 75220 214-447-7310 (phone) 817-338-3777 (facsimile)	OCN xxxx _____,Authorized Representative Address City , State ZIP xxx-xxx-xxxx (phone) xxx-xxx-xxxx (facsimile)

12.2 When Indirect Interconnection is used and if the terminating Party is unable to use its terminating records or the Tandem provider's records as the basis for billing Reciprocal Compensation, the terminating Party may request that the originating Party provide sufficient call detail to generate a bill.

12.3 The Parties shall pay each other within forty-five (45) days from the date of the billing statement, unless a Party timely submits a billing dispute. The Parties shall pay a late charge on any undisputed charges, which are not paid within the forty-five (45)-day period. The rate of the late charge shall be the lesser of one and one half percent (1.5%) per month, compounded monthly, on the unpaid balance or the maximum amount allowed by law.

12.4 If either Party disputes a billing statement issued by the other Party, the disputing Party shall notify the billing Party in writing regarding the nature and the basis of the dispute within sixty (60) days of the statement date, or the dispute shall be waived. The Parties shall diligently work toward resolution of all billing issues.

12.5 A Party must submit billing disputes to the other Party as to any previously paid undisputed amounts within twenty-four (24) months from the due date of the original amount paid.

12.6 All charges for services provided pursuant to this Agreement shall be billed within one (1) year from the time the service was provided. Charges for services provided pursuant to this Agreement which are not billed within one year from the time the service was provided shall be deemed to be waived by the billing party.

12.7 If Telecommunications Traffic does not exceed one thousand (1,000) minutes of use in a billing month, the Parties agree that the volume of traffic will be deemed *de minimis* for that month and neither Party will bill the other for any such *de minimis* traffic.

13.0 Network Maintenance and Management for Direct Interconnection

13.1 Each Party is individually responsible to provide the facilities that are necessary for routing, transporting, measuring and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the prescribed format, and to terminate the traffic it receives in the prescribed format to the proper address on its network.

13.2 SS7-Based Interconnection. All interconnection facilities supporting SS7-based interconnection will be at a DS1 level, multiple DS1 level, or DS3 level and will conform to industry standards. SS7-based two-way trunks will be engineered to a P.01 grade of service. (The technical reference for SS7 based DS1 facilities is Telcordia TR-NWT-000499. The technical reference for SS7 based trunks is Telcordia TR-NPL-000145.)

13.2.1 IP-Based Interconnection. All interconnection facilities supporting IP-based interconnection will be at a bandwidth equal to or great than a DS1 level and will conform to industry standards. IP-based trunks will be engineered to a P.01 grade of service.

13.2.2 The Parties will work cooperatively to install and maintain a reliable network. The Parties will exchange appropriate information (*e.g.*, maintenance contact numbers, network information, information required to comply with law enforcement and other security agencies of the government, etc.) to achieve this desired reliability, subject to the confidentiality provisions herein.

13.2.3 The Parties shall each provide a 24-hour contact number for network traffic management issues to the other's surveillance management center. A FAX number must also be provided to facilitate notifications for planned mass calling events.

13.2.4 Neither Party will use any service provided under this Agreement in a manner that impairs the quality of service to Customers, causes electrical hazards to either Party's personnel; or, damage to either Party's equipment or malfunction of either Party's equipment (individually and collectively, "Network Harm"). If a Network Harm will occur, or if a Party reasonably

determines that a Network Harm is imminent, such Party will, where practicable, notify the other Party that temporary discontinuance or refusal of continued operation may be required; provided, however, wherever prior notice is not practicable, such Party may temporarily discontinue or refuse operation forthwith, if such action is reasonable under the circumstances. In case of such temporary discontinuance or refusal, such Party will:

13.2.4.1 Promptly notify the other Party of such temporary discontinuance or refusal;

13.2.4.2 Afford the other Party the opportunity to correct the situation which gave rise to such temporary discontinuance or refusal; and,

13.2.4.3 Inform the other Party of its right to bring a complaint to the Commission, FCC, or a court of competent jurisdiction.

13.3 Maintenance of Service - When one Party reports trouble to the other Party for clearance and no trouble is found in the second Party's network, the reporting Party shall be responsible for payment of a Maintenance of Service Charge for the period of time when the second Party's personnel are dispatched. In the event of an intermittent service problem that is eventually found to be in the second Party's network, the reporting Party shall receive a credit for any Maintenance of Service Charges applied in conjunction with this service problem.

13.3.1 If a Party reports trouble to the other Party for clearance and the other Party's personnel are not allowed access to the reporting Party's premises, the Maintenance of Service Charge will apply for the time that the non-reporting Party's personnel are dispatched; provided that the Party's have arranged a specific time for the service visit.

14.0 Number Portability

14.1 The Parties will follow and implement the FCC's Local Number Portability (LNP) rules, and mutually support LNP. LNP orders will be exchanged using industry standard forms. Neither Party shall require any information in addition to that prescribed by current FCC rules and decisions.

14.2 When a Party ports a Customer's telephone number to its switch, that Party shall become responsible for the Customer's E911 record and other Telecommunications-related items.

14.3 Neither Party will charge the requesting Party for LSRs or the associated Customer Service Records (CSRs).

14.4 Some of the Telecommunications Traffic to be exchanged under this Agreement may be destined for telephone numbers that have been ported out by one or the other Party to a third party network. In such cases, the N-1 carrier has the responsibility to determine if a query is required, to launch the query, and to route the call to the appropriate switch or network.

14.5 The Parties shall perform LNP database query, routing, and transport in accordance with rules and regulations as prescribed by the FCC and the FCC approved guidelines of the North American Number Council ("NANC").

14.6 For purposes of this Agreement, the Parties agree to fulfill their N-1 carrier responsibilities and perform queries on calls to telephone numbers within NXXs

that have been designated as portable. Neither Party shall default route unqueried traffic that should be routed to a third party telecommunications carrier to the other Party, with the result that the other Party must then reroute to the proper network for termination. If and to the extent a Party fails to perform a query and a call is default routed to the other Party, the other Party may assess, and the default routing Party shall pay, the default routing charge stated in Appendix A.

15.0 Liability and Indemnification

15.1 Except as otherwise expressly provided neither Party shall bear any responsibility for the Interconnection, functions, products and services provided by the other Party, its agents, subcontractors, or others retained by such parties.

15.2 Each Party shall be indemnified and held harmless by the other Party against claims, losses, suits, demands, damages, costs, expenses, including reasonable attorney's fees ("Claims"), asserted, suffered, or made by third parties arising from (i) any act or omission of the indemnifying Party in connection with its performance or non-performance under this Agreement; (ii) actual or alleged infringement by the indemnifying Party of any patent, trademark, copyright, service mark, trade name, trade secret or intellectual property right (now known or later developed), and (iii) provision of the indemnifying Party's services or equipment, including but not limited to claims arising from the provision of the indemnifying Party's services to its Customers (e.g., claims for interruption of service, quality of service or billing disputes). Each Party shall also be indemnified and held harmless by the other Party against Claims of persons for services furnished by the indemnifying Party or by any of its subcontractors, under worker's compensation laws or similar statutes.

15.3 A Party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other Party ("Indemnified Party") against any claim or loss arising from the Indemnifying Party's use of Interconnection, functions, products and duties provided under this Agreement involving:

15.3.1 any Claim for libel, slander, invasion of privacy, or infringement of intellectual property rights arising from the Indemnifying Party's or its Customer's use.

15.3.2 any claims, demands or suits that asserts any claim for libel, slander, infringement or invasion of privacy or confidentiality of any person or persons caused or claimed to be caused, directly or indirectly, by the other Party's employees and equipment associated with the provision of any service herein. The foregoing includes any Claims or losses arising from disclosure of any Customer-specific information associated with either the originating or terminating numbers used to provision Interconnection, functions, products or duties provided hereunder and all other Claims arising out of any act or omission of the Customer in the course of using any Interconnection, functions, products or services provided pursuant to this Agreement.

15.3.3 Any and all penalties imposed on either Party because of the Indemnifying Party's failure to comply with the Communications Assistance to Law Enforcement Act of 1994 (CALEA); provided that the Indemnifying Party shall also, at its sole cost and expense, pay any amounts necessary to modify or replace any equipment, or services provided to the Indemnified

Party under this Agreement to ensure that such equipment, and services fully comply with CALEA.

15.4 Except as provided in this Agreement, neither Party makes any warranty, express or implied, concerning either Party's (or any third party's) rights with respect to intellectual property (including without limitation, patent, copyright and trade secret rights) or contract rights associated this Agreement.

15.5 Each Party ("Indemnifying Party") shall reimburse the other Party ("Indemnified Party") for damages to the Indemnified Party's equipment, Interconnection trunks and other property used pursuant to this Agreement caused by the negligence or willful act of the Indemnifying Party, its agents, subcontractors or Customer or resulting from the Indemnifying Party's improper use, or due to malfunction of any functions, products, duties or equipment provided by any person or entity other than the Indemnified Party. Upon reimbursement for damages, the Indemnified Party will cooperate with the Indemnifying Party in prosecuting a claim against the person causing such damage. The Indemnifying Party shall be subrogated to the right of recovery by the Indemnified Party for the damages to the extent of such payment.

15.6 Indemnification Procedures

15.6.1 Whenever a claim shall arise for indemnification, the relevant Indemnified Party, as appropriate, shall promptly notify the Indemnifying Party and request in writing the Indemnifying Party to defend the same. Failure to notify the Indemnifying Party shall not relieve the Indemnifying Party of any liability that the Indemnifying Party might have, except to the extent that such failure prejudices the Indemnifying Party's ability to defend such claim.

15.6.2 The Indemnifying Party shall have the right to defend against such liability or assertion, in which event the Indemnifying Party shall give written notice to the Indemnified Party of acceptance of the defense of such claim and the identity of counsel selected by the Indemnifying Party. If and to the extent the Indemnifying Party must seek intervention or other participation in a judicial or regulatory proceeding, the Indemnified Party shall support the Indemnifying Party's intervention.

15.6.3 Until such time as Indemnifying Party provides written notice of acceptance of the defense of such claim, the Indemnified Party shall defend such claim, at the expense of the Indemnifying Party, subject to any right of the Indemnifying Party to seek reimbursement for the costs of such defense in the event that it is determined that Indemnifying Party had no obligation to indemnify the Indemnified Party for such claim.

15.6.4 Upon accepting the defense, the Indemnifying Party shall have exclusive right to control and conduct the defense and settlement of any such Claims, subject to consultation with the Indemnified Party. So long as the Indemnifying Party is controlling and conducting the defense, the Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.

15.6.5 At any time, an Indemnified Party shall have the right to refuse a compromise or settlement, and, at such refusing Party's cost, to take over such defense; provided that, in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify the refusing Party against, any cost or liability in excess of such refused compromise or settlement.

15.6.6 With respect to any defense accepted by the Indemnifying Party, the Indemnified Party will be entitled to participate with the Indemnifying Party in such defense if the claim requests equitable relief or other relief that could affect the rights of the Indemnified Party, and shall also be entitled to employ separate counsel for such defense at such Indemnified Party's expense.

15.6.7 If the Indemnifying Party does not accept the defense of any indemnified claim as provided above, the Indemnified Party shall have the right to employ counsel for such defense at the expense of the Indemnifying Party.

15.6.8 In the event of a failure to assume the defense, the Indemnified Party may negotiate a settlement, which shall be presented to the Indemnifying Party. If the Indemnifying Party refuses to agree to the presented settlement, the Indemnifying Party may take over the defense. If the Indemnifying Party refuses to agree to the presented settlement and refuses to take over the defense, the Indemnifying Party shall be liable for any reasonable cash settlement not involving any admission of liability by the Indemnifying Party, though such settlement may have been made by the Indemnified Party without approval of the Indemnifying Party, it being the Parties' intent that no settlement involving a non-monetary concession by the Indemnifying Party, including an admission of liability by such Party, shall take effect without the written approval of the Indemnifying Party.

15.6.9 Each Party agrees to cooperate and to cause its employees and agents to cooperate with the other Party in the defense of any such claim and the relevant records of each Party shall be available to the other Party with respect to any such defense, subject to the restrictions and limitations set forth in Section 9.

15.7 Apportionment of Fault. Except for losses alleged or claimed by a Customer of either Party and except as otherwise provided in this Agreement, in the case of any loss alleged or claimed by a third party arising out of the negligence or willful misconduct of both Parties, each Party shall bear, and its obligation under this Section shall be limited to, that portion of the resulting expense caused by its own negligence or willful misconduct or that of its agents, servants, contractors, or others acting in aid or concert with it.

15.7.1 The Parties are not liable for any act or omission of Third Party Providers.

15.7.2 Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.

15.8 No Consequential Damages

Neither _____ TELEPHONE COMPANY nor HALO shall be liable to the other Party for any indirect, incidental, consequential, reliance, or special damages suffered by such other Party (including, without limitation, damages for harm to business, lost revenues, lost savings, or lost profits suffered by such other party), regardless of the form of action, whether in contract, warranty, strict liability, or tort, including, without limitation, negligence whether active or passive, and regardless of whether the parties knew of the possibility that such damages could result. Each Party hereby releases the other Party (and such other Party's subsidiaries and affiliates and their respective officers, directors, employees and agents) from any such claim. Nothing contained in this section will limit either Party's liability to the other for (i) willful or intentional misconduct (including gross negligence) or (ii) bodily injury, death, or damage to tangible real or tangible personal property to the extent proximately caused by _____ TELEPHONE COMPANY's or HALO'S negligent act or omission or that of their respective agents, subcontractors or employees, nor will anything contained in this section limit the Parties' indemnification obligations, as specified herein.

16.0 Confidentiality and Proprietary Information

16.1 For the purposes of this Agreement, Confidential Information ("Confidential Information") means confidential or proprietary technical or business information given by one Party (the "Discloser") to the other (the "Recipient"). All information which is disclosed by one Party to the other in connection with this Agreement, during negotiations and the term of this Agreement will not be deemed Confidential Information to the Discloser and subject to this Section 10, unless the confidentiality of the information is confirmed in writing by the Discloser prior to disclosure. The Recipient agrees (i) to use Confidential Information only for the purpose of performing under this Agreement, (ii) to hold it in confidence and disclose it to no one other than its employees having a need to know for the purpose of performing under this Agreement, and (iii) to safeguard it from unauthorized use or discloser using at least the same degree of care with which the Recipient safeguards its own Confidential Information. If the Recipient wishes to disclose the Discloser's Confidential Information to a third-party agent or consultant, such disclosure must be agreed to in writing by the Discloser, and the agent or consultant must have executed a written agreement of nondisclosures and nonuse comparable in scope to the terms of this section.

16.2 The Recipient may make copies of Confidential Information only as reasonably necessary to perform its obligations under this Agreement. All such copies will be subject to the same restrictions and protections as the original and will bear the same copyright and proprietary rights notices as are contained on the original.

16.3 The Recipient agrees to return all Confidential Information in tangible form received from the Discloser, including any copies made by the Recipient, within thirty (30) days after a written request is delivered to the Recipient, or to destroy all such Confidential Information if directed to do so by Discloser except for Confidential Information that the Recipient reasonably requires to perform its obligations under this Agreement; the Recipient shall certify destruction by written letter to the Discloser. If either Party loses or makes an unauthorized disclosure of the Party's Confidential Information, it will notify such other Party immediately and use its best efforts to retrieve the lost or wrongfully disclosed information.

16.4 The Recipient shall have no obligation to safeguard Confidential Information: (i) which was in the possession of the Recipient free of restriction prior to its receipt from the Discloser; (ii) after it becomes publicly known or available through no breach of this Agreement by the Recipient; (iii) after it is rightfully acquired by the Recipient free of restrictions on its discloser; (iv) after it is independently developed by personnel of the Recipient to whom the Discloser's Confidential Information had not been previously disclosed. In addition, either Party will have the right to disclose Confidential Information to any mediator, arbitrator, state or federal regulatory body, or a court in the conduct of any mediation, arbitration or approval of this Agreement, as long as, in the absence of an applicable protective order, the Discloser has been previously notified by the Recipient in time sufficient for the Recipient to undertake all lawful measures to avoid disclosing such confidential information and for Discloser to have reasonable time to seek or negotiate a protective order before or with any applicable mediator, arbitrator, state or regulatory body or a court.

16.5 The Parties recognize that an individual Customer may simultaneously seek to become or be a Customer of both Parties. Nothing in this Agreement is intended to limit the ability of either Party to use customer-specific information lawfully obtained from Customers or sources other than the Discloser.

16.6 Each Party's obligations to safeguard Confidential Information disclosed prior to expiration or termination of this Agreement will survive such expiration or termination.

16.7 No license is hereby granted under any patent, trademark, or copyright, nor is any such license implied solely by virtue or the disclosure of any Confidential Information.

16.8 Each Party agrees that the Discloser may be irreparably injured by a disclosure in breach of this Agreement by the Recipient or its representatives and the Discloser will be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any breach or threatened breach of the confidentiality provisions of this Agreement. Such remedies will not be deemed to be the exclusive remedies for a breach of this Agreement, but will be in addition to all other remedies available at law or in equity.

17.0 Publicity

17.1 The Parties agree not to use in any advertising or sales promotion, press release or other publicity matter any endorsement, direct or indirect quote, or picture implying endorsement by the other Party or any of its employees without such Party's prior written approval. The Parties will submit to each other for written approval, and obtain such approval, prior to publication, all publicity matters that mention or display one another's name and/or marks or contain language from which a connection to said name and/or marks may be inferred or implied.

17.2 Neither Party will offer any services using the trademarks, service marks, trade names, brand names, logos, insignia, symbols or decorative designs of the other Party or its affiliates without the other Party's written authorization.

18.0 Dispute Resolution

18.1 Finality of Disputes – Except as provided in 8.2, no claims shall be brought for disputes arising from this Agreement more than twenty-four (24) months from the

date of occurrence which gives rise to the dispute, or beyond the applicable statute of limitations, whichever is shorter.

18.2 Alternative to Litigation - The Parties desire to resolve disputes, including billing disputes, arising out of this Agreement without litigation. Accordingly, except for action seeking a temporary restraining order or an injunction related to the purposes of this Agreement, or suit to compel compliance with this dispute resolution process, the Parties agree to use the following alternative dispute resolution procedure as a remedy with respect to any controversy arising out of or relating to this Agreement or its breach.

18.2.1 A Party shall initially seek direct negotiation with the other Party to resolve any disputes. If the Parties fail to resolve the dispute within ninety (90) days after a request for direct negotiation, the Parties may then seek relief through a court or administrative agency of competent jurisdiction.

18.2.2 Costs - Each Party shall bear its own costs of these procedures.

18.2.3 Neither Party shall terminate or suspend the provision of any service or other performance under this Agreement during the pendency of any dispute resolution or arbitration undertaken pursuant to this Section, unless authorized by court order or the appropriate regulatory agency.

19.0 Intervening Law

19.1 The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations, orders or guidelines that subsequently may be prescribed by any federal or state government authority with jurisdiction. To the extent required or permitted by any such subsequently prescribed law, rule, regulation, order or guideline, the Parties agree to negotiate in good faith toward an agreement to modify, in writing, any affected term or condition of this Agreement to bring them into compliance with such law, rule, regulation, order or guideline. Upon failure to reach agreement to implement a change in laws, rules, regulations, orders or guidelines, either Party may seek dispute resolution before any regulatory authority with jurisdiction.

19.2 Each Party shall comply with all federal and state laws, rules and regulations applicable to its performance under this Agreement.

20.0 Miscellaneous Provisions

20.1 This Agreement shall be effective upon approval by the Commission. The Parties shall work cooperatively and take all steps necessary and proper to expeditiously prosecute a joint application before the Commission seeking approval of this Agreement pursuant to the provisions of 47 U.S.C. 252. Each Party shall be responsible for its own costs and expenses, if any are incurred, in obtaining approval of this Agreement from the Commission.

20.2 Term and Termination

20.2.1 This Agreement shall remain in effect for two (2) years after the Effective Date of this Agreement. The Agreement shall automatically renew on a month-to-month basis, unless either Party gives the other Party written notice of intent to terminate at least sixty (60) days prior to the expiration date of the initial or renewed term.

20.2.2 Upon termination or expiration of this agreement in accordance with this Section:

20.2.2.1 Each Party shall continue to comply with its obligations set forth in Section 13.0 Confidentiality and Proprietary Information.

20.2.2.2 Each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement; and upon termination or expiration of this Agreement, each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement or place disputed amounts into an escrow account.

20.2.2.3 Each Party's indemnification obligations shall survive.

20.2.3 If upon expiration or termination of this Agreement either Party requests the negotiation of a successor agreement, during the period of negotiation of the successor agreement each Party shall continue to perform its obligations and provide the services described herein until such time as the successor agreement becomes effective. If the Parties are unable to negotiate a successor agreement within the statutory time frame set for negotiations under the Act, then either Party has the right to submit this matter to the Commission for resolution pursuant to the statutory rules for arbitration under the Act.

20.3 Binding Effect - This Agreement will be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.

20.4 Assignment - Neither Party may assign, subcontract, or otherwise transfer its rights or obligations under this Agreement except under such terms and conditions as are mutually acceptable to the other Party and with such Party's prior written consent, which consent shall not be unreasonably withheld, delayed, or conditioned; provided, that either Party may assign its rights and its benefits, and delegate its duties and obligations under this Agreement without the consent of the other Party to a parent, one-hundred percent (100%) owned affiliate or subsidiary of that Party, or other entity under the common control of the Party's parent(s) for the continued provisioning under this Agreement.

20.5 Third Party Beneficiaries - This Agreement shall not provide any non-Party with any remedy, claim, cause of action or other right.

20.6 *Force Majeure* - Neither Party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such Party, regardless of whether such delays or failures in performance were foreseen or foreseeable as of the date of this Agreement, including, without limitation: fire, explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies; any law, order, regulation, ordinance or requirement of any government or legal body; or labor unrest, including, without limitation strikes, slowdowns, picketing or boycotts; or delays caused by the other Party or by other service or equipment vendors; or any other circumstances beyond the Party's reasonable control. In such event, the Party affected shall, upon giving prompt notice to the other Party, be excused from such performance on a day-to-day basis to the extent of such interference (and the other Party shall likewise be excused from performance of its obligations on a day-for-day basis to the extent

such Party's obligations relate to the performance so interfered with). The affected Party shall use its reasonable commercial efforts to avoid or remove the cause of non-performance and both Parties shall proceed to perform with dispatch once the causes are removed or cease.

20.7 Disclaimer of Warranties – The Parties make no representations or warranties, express or implied, including but not limited to any warranty as to merchantability or fitness for intended or particular purpose with respect to services or facilities provided hereunder. Additionally, neither Party assumes any responsibility with regard to the correctness of data or information supplied by the other Party when this data or information is accessed and used by a third party.

20.8 Survival of Obligations - Any liabilities or obligations of a Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of a Party under the provisions regarding indemnification, Confidential Information, limitations on liability, and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) termination of this Agreement, will survive cancellation or termination thereof.

20.9 Waiver - The failure of either Party to enforce or insist that the other Party comply with the terms or conditions of this Agreement, or the waiver by either Party in a particular instance of any of the terms or conditions of this Agreement, shall not be construed as a general waiver or relinquishment of the terms and conditions, but this Agreement shall be and remain at all times in full force and effect.

20.10 Patents, Trademarks and Trade Names

20.10.1 With respect to claims of patent infringement made by third persons, the Parties shall defend, indemnify, protect, and save harmless the other from and against all claims arising out of the improper combining with or use by the indemnifying Party of any circuit, apparatus, system or method provided by that Party or its Customers in connection with the Interconnection arrangements furnished under this Agreement.

20.10.2 No license under patents is granted by either Party to the other, or shall be implied or arise by estoppel with respect to any circuit, apparatus, system, or method used by either Party in connection with any Interconnection Arrangements or services furnished under this Agreement.

20.10.3 Nothing in this Agreement will grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, or trade names of the other for any purpose whatsoever, absent prior written consent of the other Party.

20.11 Relationship of the Parties

20.11.1 This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-party beneficiary rights hereunder.

20.11.2 Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party.

20.11.3 Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

20.11.4 Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of its employees assisting in the performance of such obligations. Each Party and each Party's contractor(s) shall be solely responsible for all matters relating to payment of such employees, including the withholding or payment of all applicable federal and state income taxes, social security taxes and other payroll taxes with respect to its employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts and all other regulations governing such matters. Each Party has sole authority and responsibility to hire, fire, and otherwise control its employees.

20.11.5 Nothing contained herein shall constitute the Parties as joint venturers, partners, employees or agents of one another, and neither Party shall have the right or power to bind or obligate the other. Nothing herein will be construed as making either Party responsible or liable for the obligations and undertakings of the other Party. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party.

20.12 Notices - Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally; on the date receipt is acknowledged in writing by the recipient if delivered by regular mail; or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Notice may also be provided by facsimile, which shall be effective on the next Business Day following the date of transmission as reflected in the facsimile confirmation sheet. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable address indicated below or such address as the Party to be notified has designated by giving notice in compliance with this section.

For HALO :

Halo Wireless, Inc.
Attn: Jason Menard
2351 West Northwest Hwy
Site 1204
Dallas, TX 75220
(214) 447-7310 (phone)
(817-338-3777 (facsimile)
jmenard@halowireless.com (email)

For _____	_____ Telephone Company
TELEPHONE COMPANY:	Telephone Company Attn: _____Authorized Representative _____ Address _____ City, ST ZIP _____ (phone) _____ (facsimile) _____ (email)

20.13 Expenses - Except as specifically set out in this Agreement, each Party will be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.

20.14 Headings - The headings in this Agreement are inserted for convenience and identification only and will not be considered in the interpretation of this Agreement.

20.15 Governing Law - The validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the Parties will be governed by the laws of the State of Texas, without reference to conflict of laws provision, except insofar as federal law may control any aspect of this Agreement, in which case federal law will govern.

20.16 Multiple Counterparts - This Agreement may be executed in multiple counterparts, each of which will be deemed an original but all of which will together constitute but one and the same document.

20.17 Complete Terms - This Agreement together with its appendices constitutes the entire agreement between the Parties and supersedes all prior discussions, representations or oral understandings reached between the Parties. Appendices referred to herein are deemed attached hereto and incorporated by reference and therefore constitute part of this Agreement. Neither Party shall be bound by any amendment, modification or additional terms unless it is reduced to writing signed by an authorized representative of the Party sought to be bound.

20.18 This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

20.19 No provision of this Agreement shall be deemed amended or modified by either Party unless such an amendment or modification is in writing, dated, and signed by an authorized representative of both Parties.

20.20 Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized representatives.

_____ **Telephone Company**	**Halo Wireless, Inc.**
Telephone Company	
BY:	BY:
(Signature)	(Signature)
NAME:	NAME:
(Printed)	(Printed)
TITLE:	TITLE:
DATE:	DATE:

APPENDIX A

1.0	Reciprocal compensation for transport and termination: (per Conversation MOU):	$0.0007
2.0	Transiting Rate, as applicable:	[to be set after presentation of cost information]
3.0	Default Query Charge:	[to be set after presentation of cost information]
4.0	Maintenance of Service Charge	[to be set after presentation of cost information]

JOHNSON & SPORLEDER, LLP

Craig S. Johnson
Andrew J. Sporleder
Attorneys at Law

March 7, 2011

Via email

John Marks, Counsel
Halo Wireless Inc
3437 W. 7th St
Box 127
Fort Worth, TX 76107

Re: Notice of Request for Blocking of Traffic of Halo Wireless Inc. terminating to Mid-Missouri Telephone Company, made pursuant to the Missouri Enhanced Record Exchange Rule of the Missouri Public Service Commission.

Dear Mr. Marks:

Thank you for the conference call of February 24. Thank you also for your March 2 email response to my email of February 25. This letter is in furtherance of those discussions, and in response to your letter of February 22 to AT&T Missouri and myself on Mid-Missouri's behalf.

Mid-Missouri has decided to continue with its blocking request of February 14, 2011. Halo's actions indicate Mid-Missouri's interests will best be protected by blocking Halo Wireless (Halo) traffic. If Halo in writing requests interconnection agreement negotiations with Mid-Missouri before March 14, Mid-Missouri will drop its blocking request.

I disagree with the positions Halo has taken in these regards, and will set forth my disagreement here. If I don't respond to every detail of your correspondence that does not indicate agreement.

Halo adopted an interconnection agreement with AT&TMo in June of 2010, as Halo was required to do in order to exchange reciprocal compensation traffic with Missouri's largest ILEC. Although Mid-Missouri is not as large as AT&T, Halo was obligated to do the same in order to exchange reciprocal traffic with Mid-Missouri. I note that § 3.1.3 of your agreement with AT&TMo obligated Halo to enter into an agreement with Mid-Missouri before sending traffic to Mid-Missouri. If Halo had complied with its own contractual obligations, the current disputes would not have arisen.

Instead of complying with the law, and with an interconnection agreement approved by the State of Missouri, Halo sent Mid-Missouri terminating traffic without any notice or opportunity to develop the reciprocal compensation and exchange access arrangements required for these types of traffic. Mid-Missouri billed the correct exchange access rates for this traffic, the only compensation mechanism available to Mid-Missouri as Halo failed to obtain an agreement with Mid-Missouri as required by law. In response to Mid-Missouri's bill, Halo claims Mid-Missouri can't assess *any* charges to Halo because there is no agreement. Then Halo creates a backup argument that there is a "defacto" bill and keep agreement. It is apparent to me that Halo is interested in free use of Mid-

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573-659-8734 • 573-761-3587 FAX

Missouri facilities while it attempts to avoid or delay its obligation to compensate.

Missouri's Enhanced Record Exchange Rule was designed to protect terminating carriers such as Mid-Missouri from exactly this type of situation. By placing traffic on the LEC-to-LEC network, Halo has brought itself within the ambit of this rule, and within the jurisdiction of the State of Missouri via the Missouri Public Service Commission, and therefore is subject to having its traffic blocked. Missouri is entitled to enforce this Rule. 47 USC 251(d)(3). 47 USC 253.

Although FCC rules do contemplate "bill and keep" reciprocal compensation arrangements, there are three prerequisites that are not present here: (1) Mid-Missouri has not agreed to it; (2) there is no balance of traffic; and (3) the MoPSC has not approved it for use by Halo and Mid-Missouri.

Halo claims that Mid-Missouri's only recourse is to request Halo to negotiate. But in the same breath Halo attempts to impose artificial and dilatory constructs as to what Mid-Missouri must say in the interconnection request Halo invites Mid-Missouri to make. To be clear, Mid-Missouri has not requested interconnection agreement negotiations with Halo. Mid-Missouri has informed Halo that it can avoid the blocking request by requesting negotiations with Mid-Missouri to adopt or establish an interconnection agreement.

For the record, Mid-Missouri disagrees with Halo's constructs as to why Mid-Missouri must initiate the negotiation process, and what Mid-Missouri must say if Mid-Missouri chose to initiate them. Halo is the party guilty of establishing an indirect interconnection without Mid-Missouri's agreement, and sending traffic without agreement. There is no need for Mid-Missouri to specify the type of interconnection to address in the negotiations. Mid-Missouri is not required to specify which subsection of 47 USC 251 or 252 its request is made pursuant to. The FCC rule in 47 CFR 20.11(e) and the *T-Mobile* decision make it clear that an interconnection request triggers both sections 251 and 252. Mid-Missouri is not required to request that Halo "submit" to MoPSC arbitration jurisdiction now. The rule and *T-Mobile* decision make it clear that the term "submit" refers to a request for arbitration made during the arbitration window between the 135th and 160th days after an interconnection negotiation request.

Sincerely,

Craig S. Johnson

cc: Todd Wessing
Bonnie Gerke
Sherre Campbell
John Van Eschen, Mgr. MoPSC Telecommunications Dept.
Bill Voight
Leo Bub