

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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| Alma Communications Company d/b/a Alma |) | |
| Telephone Company, et al., |) | |
| |) | |
| Complainants, |) | |
| |) | |
| vs. |) | File No. IC-2011-0385 |
| |) | |
| Halo Wireless, Inc. |) | |
| |) | |
| Respondent. |) | |
| | | |
| BPS Telephone Company, et al., |) | |
| |) | |
| Complainants, |) | |
| |) | |
| vs. |) | File No. TC-2011-0404 |
| |) | |
| Halo Wireless, Inc., |) | |
| |) | |
| Respondent. |) | |

Response to Order to Show Cause

Come now Complainants Alma Communications Company d/b/a Alma Telephone Company, Chariton Valley Telephone Corporation, Chariton Valley Telecom Corporation, Choctaw Telephone Company, Otelco Mid-Missouri, LLC., and MoKAN DIAL, Inc., and in response to the Commission's April 12, 2012 Order to Show Cause why this proceeding should not be dismissed for lack of prosecution, state as follows:

1. This cause should not be dismissed until it is mooted by final completion of Enhanced Record Exchange Rule proceedings, currently pending in TC-2012-0331.
2. Halo obtained an interconnection agreement with AT&T Missouri based upon the

premise Halo was a CMRS provider sending intraMTA CMRS traffic to AT&T. This interconnection agreement had provisions whereby AT&T would transit Halo traffic for termination to Missouri RLECs, Complainants herein.

3. Upon receipt of the traffic, Complainants in IC-2011-0385 billed Halo intrastate access charges based upon the billing records provided by AT&T, as they had no approved interconnection agreement with Halo providing for reciprocal compensation, and as those records and call signaling information indicated the Halo traffic was landline originated traffic, not CMRS originated traffic. Halo refused to pay these bills, insisted the traffic was CMRS originated traffic, and insisted it was these Complainants' obligation to request interconnection agreement negotiations in order to obtain reciprocal compensation rights. As the traffic did not appear to be CMRS originated traffic, these Complainants refused to do as Halo insisted.

4. The FCC on November 18, 2011 in FCC 11-151, paragraphs 1005 and 1006 (footnotes and citations omitted), ruled that the Halo "re-origination scheme" did not convert landline long distance traffic into wireless local traffic:

1005. We first address a dispute regarding the interpretation of the intraMTA rule. Halo Wireless (Halo) asserts that it offers "Common Carrier wireless exchange services to ESP and enterprise customers" in which the customer "connects wirelessly to Halo base stations in each MTA." It further asserts that its "high volume" service is CMRS because "the customer connects to Halo's base station using wireless equipment which is capable of operation while in motion." Halo argues that, for purposes of applying the intraMTA rule, "[t]he origination point for Halo traffic is the base station to which Halo's customers connect wirelessly." On the other hand, ERTA claims that Halo's traffic is not from its own retail customers but is instead from a number of other LECs, CLECs, and CMRS providers. NTCA further submitted an analysis of

call records for calls received by some of its member rural LECs from Halo indicating that most of the calls either did not originate on a CMRS line or were not intraMTA, and that even if CMRS might be used “in the middle,” this does not affect the categorization of the call for intercarrier compensation purposes. These parties thus assert that by characterizing access traffic as intraMTA reciprocal compensation traffic, Halo is failing to pay the requisite compensation to terminating rural LECs for a very large amount of traffic. Responding to this dispute, CTIA asserts that “it is unclear whether the intraMTA rules would even apply in that case.”

1006. We clarify that a call is considered to be originated by a CMRS provider for purposes of the intraMTA rule only if the calling party initiating the call has done so through a CMRS provider. Where a provider is merely providing a transiting service, it is well established that a transiting carrier is not considered the originating carrier for purposes of the reciprocal compensation rules. Thus, we agree with NECA that the “re-origination” of a call over a wireless link in the middle of the call path does not convert a wireline-originated call into a CMRS-originated call for purposes of reciprocal compensation and we disagree with Halo’s contrary position.

5. The FCC ruling has exonerated these Complainants’ billing of access to Halo, destroyed the validity of Halo’s pretense of needing an interconnection agreement with AT&T in order to exchange wireless originated traffic, rendered Halo’s use of that interconnection agreement improper, destroyed the validity of Halo’s abuse of the indirect interconnection obtained with Complainants via AT&T, and destroyed the basis of Halo’s abuse of the transit provisions of the AT&T interconnection agreement to bypass these Complainants’ access tariffs and services.

6. Unfortunately, Halo refuses to acknowledge the FCC Order sounded the death knell to Halo's access avoidance scheme. Halo continues to maintain it is sending intraMTA CMRS originated traffic to these Complainants before the Bankruptcy Court of the United States, and before this Commission.

7. The instant ERE Complaint proceedings were initiated before Halo filed bankruptcy, before the FCC declared that Halo's access avoidance scheme was unlawful. These Complainants also initiated Case No. TO-2012-0035, which sought rejection of the transiting provisions of the Halo/AT&T Interconnection Agreement. Halo filed bankruptcy and had these proceedings removed.

8. On October 26, 2011, the United States Bankruptcy Court for the Eastern District of Texas, in the Halo bankruptcy, ruled that the Missouri proceedings were not subject to the bankruptcy stay, and could be "advanced to a conclusion and a decision in respect of such regulatory matters may be rendered, provided however, that nothing herein shall permit, as part of such proceedings: A. liquidation of the amount of any claim against the Debtor; or (B) any action which affects the debtor-creditor relationship between the Debtor and any creditor or potential creditor.

On the basis of this ruling the Missouri proceedings, which Halo had removed to federal court, were remanded back to the Commission.

9. On February 22, 2012 the Commission entered an Order holding TO-2012-0035, the rejection proceeding, in abeyance pending completion of Enhanced Record Exchange Rule proceedings. Complainants Alma, Choctaw, and MoKan Dial immediately initiated blocking requests pursuant to the Missouri ERE.

10. On April 3, 2012, Halo, still claiming it was sending CMRS originated traffic to Alma, Choctaw, and MoKan Dial, filed a complaint regarding the blocking requests, TC-2012-0331. Alma, Choctaw, and MoKan Dial have asked that this Commission dismiss Halo's complaint for lack of compliance with the ERE.

11. Halo consistently refuses to desist from claiming its traffic is subject to reciprocal compensation, even though the FCC rejected this claim over 4 months ago. Halo consistently refuses to participate in substantive proceeding before the Missouri Public Service Commission. The only pleadings Halo files with this Commission seek no "affirmative relief" from this Commission, and are filed "under protest" as part of an attempt to persuade the Commission that it lacks any jurisdiction over Halo.

12. This Commission has jurisdiction over Halo by virtue of 4 CSR 240-29, by virtue of 47 USC 252. This Commission has jurisdiction over Halo in all pending proceedings: IC-2011-0385; TC-2011-0404; TO-2012-0035; and TC-2012-0331.

13. The Commission should not dismiss any single proceeding until there has been a final determination permitting the blocking of Halo traffic, or rejecting and terminating the transit provisions of the Halo / AT&T Interconnection Agreement. Doing so would only invite Halo to concoct and advance some position based on a dismissal. While we agree with the Commission's desire to minimize and streamline the resources devoted to Halo proceedings, we fear doing so would only have the opposite effect.

WHEREFORE, on the basis of the foregoing, Complainants respectfully request that the Commission accept this filing as demonstrating which this cause should not be dismissed until it is mooted by final completion of Enhanced Record Exchange Rule proceedings, currently pending in TC-2012-0331.

Respectfully submitted,

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was electronically mailed, this 4th day of April, 2012 to all counsel of record.

/s/ Craig S. Johnson
Craig S. Johnson