

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

Halo Wireless, Inc.,	§	
	§	
Complainant,	§	Case No. TC-2012-0331
	§	
v.	§	
	§	
The Staff Telephone Cooperative, Inc., et al.,	§	
	§	
Respondents.	§	

**HALO WIRELESS, INC.’S
OBJECTIONS TO REBUTTAL TESTIMONY OF WILLIAM L. VOIGHT**

Halo Wireless, Inc. (“Halo”) hereby objects to and moves to strike or exclude the proposed Rebuttal Testimony of William L. Voight on behalf of the Missouri PSC Telecommunications Staff (the “Staff”), as follows:

I. Legal Standards

Procedures in contested cases are governed by section 536.070 of the Revised Statutes of Missouri (RSMo 2000), as supplemented by 4 CSR 240-2.130. Under these provisions, the “[p]rocedural formalities in contested cases generally include...adherence to evidentiary rules, § 536.070.” *Cade v. State*, 990 S.W.2d 32, 37 (Mo.App.1999) (citing *see Hagely v. Board of Educ. of Webster Groves Sch. Dist.*, 841 S.W.2d 663, 668 (Mo. banc 1992)). Therefore, “[s]tatements in violation of evidentiary rules do not qualify as competent and substantial evidence” in administrative proceedings “when proper objection is made and preserved.” *Concord Publ’g House, Inc. v. Dir. of Revenue*, 916 S.W.2d 186, 195 (Mo. banc 1996).

II. Reservation of Objections

Halo hereby requests any data or other information underlying Mr. Voight's testimony (to the extent not previously provided). Halo reserves the right to make any additional objections that may be appropriate after review of such information.

III. Specific Objections to Lines 1:21-2:13

Halo objects that Mr. Voight's testimony constitutes legal conclusions that are neither helpful nor relevant and that Mr. Voight is not qualified to provide. Furthermore, to the extent that Mr. Voight's testimony could be considered expert opinion, the testimony lacks foundation establishing its reliability. In addition, the documents referenced by Mr. Voight are the best evidence of their terms, and the parol evidence rule bars the Staff from seeking to controvert them.

IV. Specific Objections to Lines 2:14-3:10

Halo objects that Mr. Voight's testimony constitutes legal conclusions that are neither helpful nor relevant and that Mr. Voight is not qualified to provide. Furthermore, to the extent that Mr. Voight's testimony could be considered expert opinion, the testimony lacks foundation establishing its reliability. In addition, the documents referenced by Mr. Voight are the best evidence of their terms, and the parol evidence rule bars the Staff from seeking to controvert them.

V. Specific Objections to Lines 6:17-8:9

Halo objects that Mr. Voight's testimony is neither relevant nor probative because the entity he discusses is not the same "Transcom" whose traffic is at issue in the present case and indeed Mr. Voight has not, and cannot establish any foundation for

demonstrating that the entity he discusses is the same as the “Transcom” in this case. Further, the probative value, if any, is far outweighed by its prejudicial value.

VI. Specific Objections to Lines 9:7-10:5

Halo objects that Mr. Voight’s testimony is based on inadmissible hearsay. In addition, the documents referenced by Mr. Voight are the best evidence of their terms, and the parol evidence rule bars the Staff from seeking to controvert them.

VII. Specific Objections to Lines 10:6-18

To the extent Mr. Voight testifies that Halo is attempting to avoid lawful payment or is engaged in an access avoidance scheme, such testimony constitutes legal conclusions that are neither helpful nor relevant and that Mr. Voight is admittedly not qualified to provide. In addition, the documents referenced by Mr. Voight are the best evidence of their terms, and the parol evidence rule bars the Staff from seeking to controvert them.

VIII. Specific Objections to Lines 10:19-11:8

To the extent Mr. Voight testifies that Halo is attempting to use other people’s property for free, such testimony constitutes legal conclusions that are neither helpful nor relevant and that Mr. Voight is not qualified to provide. In addition, the documents referenced by Mr. Voight are the best evidence of their terms, and the parol evidence rule bars the Staff from seeking to controvert them.

IX. Specific Objections to Lines 12:4-12:11

To the extent Mr. Voight testifies that Halo is engaged in access avoidance, such testimony constitutes legal conclusions that are neither helpful nor relevant and that Mr. Voight is not qualified to provide. In addition, the documents referenced by Mr. Voight

are the best evidence of their terms, and the parol evidence rule bars the Staff from seeking to controvert them.

X. Specific Objections to Lines 12:12-20:11

Halo objects that Mr. Voight's testimony constitutes legal conclusions that are neither helpful nor relevant and that Mr. Voight is not qualified to provide. Furthermore, to the extent that Mr. Voight's testimony could be considered expert opinion, the testimony lacks foundation establishing its reliability. In addition, the documents referenced by Mr. Voight are the best evidence of their terms, and the parol evidence rule bars the Staff from seeking to controvert them.

XI. Specific Objections to Exhibits

Halo objects that Schedule WL V 1 is hearsay, and the Staff has not laid a foundation establishing its admissibility.

XII. Conclusion

As set forth above, Halo respectfully requests that the Commission enter an order sustaining Halo's objections and striking or excluding, as applicable, the rebuttal testimony of William L. Voight.

DATED: June 25, 2012

Respectfully submitted,

s/ Daniel R. Young
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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June, 2012, the foregoing document has been filed with the Missouri Public Service Commission electronic filing system and that true and correct copies of the foregoing have been served upon all counsel of record by electronic mail.

s/ Daniel R. Young _____
DANIEL R. YOUNG