

EOD

02/06/2012

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

In re:

HALO WIRELESS, INC.,
Debtor.

Case No. 11-42464-BTR

Chapter 11

HALO WIRELESS, INC.,
Plaintiff,

Adv. Proc. No. 12-04019

v.

BELLSOUTH TELECOMMUNICATIONS,
LLC D/B/A AT&T TENNESSEE,
Defendant.

**ORDER DENYING
PLAINTIFF'S REQUEST FOR EMERGENCY INJUNCTIVE RELIEF**
[Relates to Dkt. No. 1]

On January 31, 2012, upon consideration of the *Plaintiff's Original Complaint For Emergency Injunctive Relief And To Hold Defendant In Contempt For Violation Of This Court's Order Dated October 26, 2011* (the "Injunction Request") filed by Halo Wireless, Inc., and the *Motion To Dismiss And, Subject Thereto, Original Answer And Response To Plaintiff's Original Complaint For Emergency Injunctive Relief And To Hold Defendant In Contempt For Violation Of This Court's Order Dated October 26, 2011* filed by BellSouth Telecommunications, LLC d/b/a AT&T Tennessee, the evidence, and the arguments of counsel, the Court, after due deliberation and sufficient cause appearing therefore, finds and concludes:

1. The Court has subject matter jurisdiction (a) to interpret its *Order Granting Motion Of The AT&T Companies To Determine Automatic Stay Inapplicable And For Relief From The Automatic Stay* (the "362(b)(4) Order") [Dkt. No. 159], dated October 26, 2012, and

Exhibit 5

(b) to consider matters related to Bankruptcy Code sections 362 and 365.

2. The Tennessee Regulatory Authority (the "TRA") had jurisdiction to interpret and enforce the provisions of the Interconnection Agreement (the "ICA") as set forth in its proceedings in Docket No. 11-00119 and its Order, dated January 26, 2012.

3. The TRA's ruling and Order regarding AT&T Tennessee's right to stop accepting traffic is within the TRA's police and regulatory powers and falls with the exception to the automatic stay as found in this Court's 362(b)(4) Order.

4. The TRA's determination that AT&T Tennessee may terminate the ICA is also within the TRA's authority and jurisdiction; however, prior to any termination, AT&T Tennessee must also comply with section 365 of the Bankruptcy Code.

5. There is no evidence that AT&T Tennessee terminated the ICA.

6. Plaintiff has failed to establish a likelihood of success on the merits of its complaint and the Injunction Request; thus, Plaintiff has not made the requisite showing for obtaining an injunction. It is THEREFORE

ORDERED that the emergency injunctive relief, including the mandatory temporary restraining order and the mandatory preliminary injunction requested by Halo Wireless, Inc. is hereby DENIED.

SIGNED: February ____, 2012

Signed on 2/6/2012

Brenda T. Rhoades SR
HONORABLE BRENDA T. RHOADES,
CHIEF UNITED STATES BANKRUPTCY JUDGE