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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Alma Communications Company d/b/a Alma)	
Telephone Company, Chariton Valley Telephone)	
Corporation, Chariton Valley Telecom Corporation,)	
Choctaw Telephone Company, Mid-Missouri)	
Telephone Company, a corporate division of Otelco,)	
Inc., and MoKAN DIAL, Inc.,)	
)	
Complainants,)	
)	
vs.)	Case No. TC-2011-_____
)	
Halo Wireless, Inc.)	
)	
Respondent.)	

COMPLAINT

Come now Alma Communications Company d/b/a Alma Telephone Company, Chariton Valley Telephone Corporation, Chariton Valley Telecom Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, a corporate division of Otelco, Inc., and MoKAN DIAL, Inc., hereinafter collectively referred to as "Complainants", in accordance with §§386.390 and 386.400 RSMo. 2000, 4 CSR 240-2.070, 4 CSR 240-4.020(2)(B) and 4 CSR 240-29.130, and for their Complaint against Halo Wireless, Inc., (hereinafter referred to as "Halo") state to the Missouri Public Service Commission (Commission) as follows:

1. Alma Communications Company d/b/a Alma Telephone Company (Alma) is a Missouri corporation with its principal office and place of business located at:

113 S. County Road

Alma, MO 64001

2. Chariton Valley Telephone Corporation (Chariton Valley) is a Missouri corporation with its principal office and place of business located at:

1213 East Briggs Drive

Macon, MO 63552

3. Chariton Valley Telecom Corporation (Chariton Valley Telecom) is a Missouri corporation with its principal office and place of business located at:

1213 East Briggs Drive

Macon, MO 63552

4. Choctaw Telephone Company (Choctaw) is a Missouri corporation with its principal office and place of business located at:

204 W. Main

Halltown, MO 65664

5. Mid-Missouri Telephone Company (Otelco) is a Missouri corporation, and a wholly-owned corporate division of Otelco, Inc., with its principal office and place of business located at:

215 Roe Street

Pilot Grove, MO 65276

6. MoKAN DIAL, Inc. (MoKAN) is a Kansas corporation doing business in Missouri, with its principal office and place of business located at:

112 South Broadway

7. Copies of Complainants certificates of good standing issued by the Missouri Secretary of State are attach hereto and incorporated by reference as Exhibits 1, 2, 3, 4, 5, 6, and 7 respectively.

8. Matters regarding this complaint may be directed to the attention of:

Craig S. Johnson
Johnson and Sporleder, LLP
304 E. High, Suite 200
P.O. Box 1670
Jefferson City, MO 65102
(573)659-8734
(573)761-3587 fax
cj@cjaslaw.com

9. Complainants are "telecommunications companies" providing "basic local telecommunications services" and "exchange access services," as those terms are defined by §386.020, to customers located in their service areas pursuant to a certificates of service authority issued by the Commission.

10. Complainants Alma, Chariton Valley, Choctaw, Otelco, and MoKAN, are small rural incumbent local exchange companies, often referred to as "ILECs".

11. Complaint Chariton Valley Telecom is an alternative local exchange company, or competitive local exchange company, often referred to as a "CLEC".

12. Complainants are unaware of any pending action or final unsatisfied judgments or decisions issued against them from any state or federal agency or court within three years of the date of this complaint which involved customer service or rates. Complainants' annual reports to the Commission and assessment fees are not overdue.

13. On information and belief, Halo is a corporation organized under the laws of Texas. Halo was granted a registration to do business as a foreign corporation by the Missouri Secretary of State's office on January 29, 2010. However, Halo's registration to do business as a foreign corporation was administratively dissolved by the Missouri Secretary of State's office on August 25, 2010.

14. To the best of Complainants' knowledge, Halo's address and contact person for service of process is:

John Marks, Attorney/General Counsel
Halo Wireless, Inc.
2351 West Northwest Highway
Suite 1204
Dallas, TX 75220

15. Respondent Halo purports to be a provider of commercial mobile radio service (CMRS) within the state of Missouri. However, the majority of Halo's traffic appears to involve landline-originated calls. Halo's certificate of authority from the Missouri Secretary of State's office lists Halo's "business purpose" as "wholesale telecommunications service." Therefore, the nature of services provided by Halo, and the jurisdictional nature of Halo's traffic, is likely to be contested.

16. Beginning in November to December, 2010, and thereafter, Complainants began receiving wireless billing records from their tandem provider(s), indicating that a new carrier's traffic had been placed on the LEC to LEC network in Missouri for termination to Complainants.

17. AT&T Missouri, Inc. informed Complainants that this new carrier was Halo Wireless, Inc. The billing records, and subsequent check of Complainants' switch records, indicated that an unusually large amount of traffic was being reported as Halo

traffic, even though Halo was ostensibly a small new start-up operation that had no operational or customer presence in Missouri. In subsequent months the Halo traffic volumes grew by unusually large increments.

18. A further manual review and comparison of the billing records and Complainants' switch records indicated that much of the Halo traffic was landline originated, some was wireless originated traffic originated by true CMRS providers other than Halo, that some of the landline-originated traffic was interstate in jurisdiction, that some of the landline-originated traffic was intrastate in jurisdiction, and that some of the landline-originated traffic was interLATA in jurisdiction.

19. On an annualized basis, based on the amounts of Halo traffic terminating to Complainants in the first few months prior to blocking, the value of the traffic to Complainants collectively, assuming terminating intrastate access rates applied, would be approximately \$459,000. Assuming Complainants' terminating reciprocal compensation rates applied, the annualized value of this traffic to Complainants collectively would be approximately \$123,000.

20. Halo had to obtain an approved interconnection agreement with AT&T Missouri before AT&T would allow Halo to terminate traffic on the LEC to LEC network. This agreement was approved by Halo's adoption of an interconnection agreement between Voicestream Wireless and AT&T, which adoption agreement was signed by Halo and AT&T by June 21, 2010, and filed with the Commission by AT&T under cover letter dated June 29, 2010. Based upon information and belief this interconnection agreement was effectuated by adoption without Order of the Commission.

Section 3.1.3 of that agreement, entitled "Traffic to Third Party Providers", provides

as follows:

“Carrier and SWBT shall compensate each other for traffic that transits their respective systems to any Third party Provider, as specified in Appendix PRICING. The Parties agree to enter into their own agreements with Third Party Providers. In the event that Carrier sends traffic through SWBT’s network to a Third Party Provider with whom Carriers does not have a traffic interchange agreement, then Carrier agrees to indemnify SWBT for any termination charges rendered by a Third party Provider for such traffic.”

21. Halo did not obtain any agreements with Complainants before sending traffic through AT&T destined to terminate on Complaints’ networks. Like SWB, complainants are ILECs entitled to equal dignity in interconnection and compensation arrangements being developed and approved prior to traffic delivery. SWB places this traffic on the LEC-to-LEC “common trunk” network over an indirect interconnection with no prior notice, no opportunity to receipt of traffic without an opportunity to object, negotiate and have approved a proper interconnection agreement. As a consequence Complainants were subjected to receipt of Halo traffic without notice or opportunity to negotiate compensation arrangements, as was afforded AT&T.

22. When Complainants billed Halo for the traffic terminating according to Complainants’ terminating access rates, the only approved compensation mechanism then in effect, as the traffic appeared to be overwhelmingly interexchange traffic subject to access charges, Halo responded disclaiming that it had any responsibility to pay terminating access charges. Halo also responded indicating it was the beneficiary of a “defacto bill and keep” arrangement with Complainants, and had no obligation to pay

anything for the use of Complainants' networks, even though Halo and AT&T had terminated the traffic to Complainants without notice or opportunity to negotiate compensation arrangements.

23. In communications between Complainants and Halo, Halo learned that Complainants had evaluated their switch records' originating caller identification information and thereby ascertained that some of the traffic terminating from Halo was landline originated, that some of the landline-originated traffic was interstate in jurisdiction, that some of the landline-originated traffic was intrastate in jurisdiction, that some of the landline-originated traffic was interLATA in jurisdiction, and that some of the traffic was wireless-originated traffic originated by carriers other than Halo. On or about February 14, 2011 and afterwards, Halo moved, altered, removed, or "stripped" the originating caller identification information from the traffic or network signaling associated with the Halo traffic terminating to Complainants, thereby negating or making more difficult Complainants' ability to thereafter glean such information about the traffic terminating from Halo.

24. Since on or about February 14, 2011 all of the Halo traffic signaling information now contains the same NPA-NXX (e.g., 816-912-1901) in the "from number" field of the switch record that previously set forth the originating caller's CPN. This NPA-NXX is assigned to Halo. Complainants continue to receive the CPN on all the other wireless calls transited to them over the AT&T tandem by other wireless carriers, such as AT&T Wireless, Sprint, and Verizon Wireless. The Complainants have done nothing to alter the way in which their switch captures and records call details, including CPN, and the Complainants anticipate that AT&T also will confirm that it has not modified its

signaling or billing parameters for Halo traffic. It is clear that somewhere upstream (i.e., in the Halo network, or the carriers that use Halo to carry their traffic) the CPN of the actual calling party is being moved and/or replaced with an NPA-NXX that only identifies the carrier to be billed.

25. Thereafter, pursuant to the provisions of the Missouri Enhanced Record Exchange Rule ("ERE", 4 CSR 240 Ch. 29), Complainants Chariton Valley, and Otelco issued requests for blocking of Halo traffic, with notices thereof to Halo and to the Commission Telecommunications Department, as required by the ERE. AT&T did block the traffic, although Halo refused to agree such blocking was appropriate.

26. Chariton Valley Telecom has issued a blocking request, which has yet to be implemented.

27. Complainants Alma, Choctaw, and MoKAN have not yet instituted blocking proceedings, but are interested in doing so to prevent further financial loss and protection of the integrity of their terminating compensation systems and procedures.

28. Halo has continually maintained that it is a Commercial Mobile Radio Services Provider (CMRS), that all of the subject traffic was its traffic, and that all of its traffic was intraMTA CMRS wireless-originated traffic subject to reciprocal compensation. Halo maintains that all of its traffic is intraMTA CMRS traffic because, due to the nature of Halo's network, all calls that originate in the Kansas City MTA originate on a Junction City Kansas "base station", and terminate in the Kansas City MTA; and all calls that originate in the St. Louis MTA originate on a Wentzville, Missouri "base station" and terminate in the St. Louis MTA.

29. A sample comparison of Complainants' switch records and the billing

records received from AT&T, indicates that most of the traffic was landline originated, some was wireless originated traffic originated by true CMRS providers other than Halo, that some of the landline-originated traffic was interstate in jurisdiction, that some of the landline-originated traffic was intrastate in jurisdiction, and that some of the landline-originated traffic was interLATA in jurisdiction.

30. Complainants disagree with Halo's contention that it was operating as a CMRS provider during the time in question. A review of FCC licensing information reveals that Halo claims to be providing wireless services pursuant to a nationwide, non-exclusive license in the 3650 MHz band. A licensee in the 3650 MHz is not authorized to operate a fixed or base station until that station is registered with the FCC. Specifically, prior to operating a fixed or base station, the licensee must register it in the Universal Licensing System (ULS) and operations cannot begin until the application for registration is in an 'Accepted' status and the nationwide license is updated on ULS. Mobile and portable stations are not registered but may only operate if they can positively receive and decode an enabling signal transmitted by a registered base station.

31. Halo submitted applications to register its Junction City, Kansas and Wentzville, Missouri base stations on August 12, 2010, and October 12, 2010, respectively, File Nos. 0004352472 and 0004416632. These registrations, however, remained pending and were not "Accepted" until sometime on April 15, 2011, after receipt of the some of the traffic in dispute, and after effectuation of some of Complainants' blocking requests.

32. Accordingly, prior to April 15, 2011, Halo had no authority to operate either base station or any mobile stations allegedly served by the Junction City and Wentzville

base stations. To the extent Halo operated such facilities prior to April 15, 2011, it did so in violation of the Federal Telecommunications Act and the FCC's Rules and any traffic transmitted over the Kansas or Missouri base stations was not authorized.

33. If, either before or after April 15, 2011, any Halo traffic terminating to Complainants did not actually originate on a mobile station, as defined in the Communications Act, served by a tower within the same MTA as the called party, such traffic is not entitled to reciprocal compensation. Instead terminating exchange access compensation is due. A wireless call originated by an end user in one MTA, transported across an MTA boundary (whether in internet protocol or otherwise) and sent over a "CMRS-in-the-middle" wireless link, does not qualify as an intraMTA call.

34. A substantial amount of Halo's traffic is intrastate interexchange traffic originated by landline customers and terminated to landline customers. This traffic is fully subject to applicable access tariffs, and cannot be converted to intraMTA wireless traffic by transporting it over "CMRS-in-the-middle" routing.

35. Complainants have seen no evidence that Halo actually has any of its own retail end user wireless customers originating calls within any MTA covering a portion of Missouri. It is not clear that Halo customers can receive calls, and therefore not clear if Halo in fact provides two-way interconnected service. Therefore it does not appear that any balance of intraMTA traffic between Halo and any Complainant exists, a prerequisite for any legitimate bill and keep reciprocal compensation, had one been submitted for approval.

36. It appears that Halo is principally engaged in a scheme to aggregate landline-originated interexchange traffic, and wireless originated traffic of other wireless

carriers, and attempt to pass all such traffic off as "intraMTA CMRS" traffic, pursuant to a claimed but undocumented and unapproved "defacto bill and keep" reciprocal compensation arrangement wherein Halo pays nothing, in a deliberate attempt to avoid lawful access charges. In other words, by aggregating the traffic of other carriers, and by using its interconnection agreement with AT&T to terminate this traffic to Complainants without advance notice or opportunity for Complainants to assure compensation arrangements, as ATUT was afforded the opportunity to do, Halo is attempting to put money that belongs to Complainants into Halo's own coffers.

37. Complainants and Halo have had direct contact, and exchanged written and email communications, but have been unable to overcome the impasse as to Complainants' claims that Halo is not in compliance with the enhanced record exchange rule.

38. The Commission has jurisdiction over this complaint pursuant to 4 CSR 240 Chapter 29, the Enhanced Record Exchange Rule, §386.040 RSMo, §386.250 RSMo, 386.320 RSMo, 386.390 RSMo, 392.190 RSMo, 392.249 RSMo, and 47 USC 253(c), and in that Halo has placed telecommunications traffic on the LEC-to-LEC network in Missouri.

MEDIATION

Complainants are willing to participate in mediation to address resolution of this dispute, cessation of blocking, and the implementation of interconnection agreement negotiations or proceedings, however, Complainants will request that, prior to the cessation of blocking, they be provided adequate security to assure compensation for the

use of their networks for all traffic prior to the effective date of any such resolution or interconnection agreement.

PRAYER FOR RELIEF

WHEREFORE, Complainants respectfully requests that the Commission utilize this docket to investigate the activities of Halo as set forth above, and issue its order finding and concluding as follows:

- A. Halo, by placing traffic on the LEC-to-LEC network for termination to Complainants via Feature Group C Protocol, subjected itself to the provisions of the ERE, 4 CSR 240-29.010(1) and (13);
- B. Halo, by placing traffic on the LEC-to-LEC network on behalf of another carrier or carriers, was either a traffic aggregator for purposes of the ERE, 4 CSR 240-29.010(3) and (38); or was a transiting carrier for purposes of the ERE, 4 CSRF 240-29.010(39) and (40);
- C. Halo placed landline originated traffic, originated using FGD Protocol, on the LEC-to-LEC network for termination using FGC Protocol, in violation of the ERE, 4 CSR 240-29.030(3);
- D. Halo placed landline originated traffic, originated in one LATA and terminating to a landline phone of Complainants within another LATA, on the LEC-to-LEC network utilizing FGC Protocol, as opposed to traversing and an interexchange carrier point of presence utilizing FGD Protocol, in violation of the ERE, 4 CSR

240-29.010(1);

- E. Halo failed to comply with the provisions of its interconnection agreement with ATT requiring Halo to enter agreements with Complainants prior to sending transit traffic to ATT for termination to Complainants, 4 CSR 240-29.030(6);
- F. That Halo's claim it terminated the traffic in question to Complainants pursuant to a "de facto" bill and keep arrangement is not proper or lawful, as there was no negotiated or arbitrated agreement between Halo and any Complainant, that there was no balance of traffic upon which a "bill and keep" arrangement must be predicated, and that no such arrangement has been approved by this Commission as required by 47 USC 252(e).
- G. Halo violated the ERE by stripping, altering, moving, masking, or failing to deliver correct originating caller identification information to AT&T, or to Complainants, 4 CSR 240-29.040 (5) and (6);
- H. Halo performed the above violations of the ERE without obtaining a variance from the Commission permitting it to do so, 4 CSR 240-29.030(1);
- I. Halo has terminated traffic to Complainants in violation of the ERE as set forth above, and Complainants should be compensated for such traffic based upon the rates contained in their access tariffs for such traffic, including interest or late fees and attorneys' fees as permitted by those tariffs, to determine the quantities of intrastate traffic that

Halo is obligated to compensate Complainants for, and that said amounts are immediately due and payable;

- J. Halo has violated the ERE as set forth above, and complainants Alma, Choctaw, and MoKAN are entitled to commence blocking proceedings in accordance with the ERE, and complainants Chariton Valley, Chariton Valley Telecom, and Otelco were entitled to commence blocking proceedings in accordance with the ERE;
- K. That for the period of time before its CMRS license was effective, Halo was unlawfully operating as an un-certificated carrier providing telecommunications services within Missouri, without having obtained the appropriate certificate or authorization from the Missouri Public Service Commission or the state of Missouri, or in the alternative was providing traffic aggregation and termination services by private contract with certificated Missouri carriers within the state of Missouri without properly registering to do business in the state of Missouri;
- L. Halo was not operating as a CMRS provider prior to April 15, 2011, any and all Halo traffic terminating to Complainants prior to April 15, 2011 is and was subject to Complainants' access tariffs, and Complainants should be compensated for such traffic based upon the rates contained in their access tariffs for such traffic, including interest or late fees and attorneys' fees as permitted by those tariffs, and that said amounts are immediately due and payable;

- M. Halo was not legitimately operating as a CMRS provider on or after April 15, 2011, and Halo and its customers did not access Halo's networks via a mobile device, therefore Complainants should be compensated for such traffic based upon the rates contained in their access tariffs for such traffic, including interest or late fees and attorneys' fees as permitted by those tariffs, and that said amounts are immediately due and payable;
- N. Halo and its customers, by routing traffic originated elsewhere, then carrying or transporting the traffic to either the Junction City or Wentzville "base station" for delivery to its interconnection point with ATT, does not constitute calls to or from mobile end user devices that both originated and terminated within an MTA at the initiation of the calls, and Complainants should be compensated for such traffic based upon the rates contained in their access tariffs for such traffic, including interest or late fees and attorneys' fees as permitted by those tariffs, and that said amounts are immediately due and payable;
- O. Halo, by failing to object to Complainants' invoices, by failing to use alternative means of delivering traffic after Complainants' initiated blocking procedures, or by failing to commence an expedited complaint proceeding under the provisions of the ERE (4 CSR 240-29.100, 29.130(7), and 29.130(9)), failed to implement mechanisms provided Halo by the ERE in which to avoid any

negative consequences of blocking;

- P. Direct AT&T, at the request of Complainants that have not yet blocked terminating Halo traffic, to block all Halo traffic from terminating on the LEC-to-LEC network until Halo has satisfied Complainants that it is in full compliance with all provisions of the ERE, and will continue in full compliance in the future.

together with such other and further relief as the Commission deems appropriate.

Respectfully submitted,

/s/Craig S. Johnson
Craig S. Johnson
Mo Bar # 28179
Johnson & Sporleder, LLP
304 E. High St., Suite 200
P.O. Box 1670
Jefferson City, MO 65102
(573) 659-8734
(573) 761-3587 FAX
cj@cjaslaw.com

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was electronically mailed this 1st day of June, 2011 to:

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
gencounsel@psc.mo.gov

Lewis Mills
Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102
lewis.mills@ded.mo.gov

John Marks
General Counsel
Halo Wireless
2351 Northwest Highway
Suite 1204
Dallas, TX 75220
jmarks@halowireless.com

/s/Craig S. Johnson
Craig S. Johnson

STATE OF Missouri)
COUNTY OF Lafayette)

AFFIDAVIT OF LARRY SULLIVAN

I, Larry Sullivan, General Manager of Alma Communications Company d/b/a Alma Telephone Company, hereby swear and affirm that I am authorized to speak on behalf of Alma and to attest to the veracity of the statements contained in this Complaint.

Larry Sullivan
Larry Sullivan

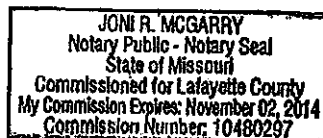
State of Missouri)
County of Lafayette) SS

I, Joni R. McGarry, a Notary Public do hereby certify that on this 25 day of May, 2011 personally appeared before me Larry Sullivan who declared that all of the information contained herein above is true, to the best of his knowledge and belief.

Joni R. McGarry
Notary Public

My Commission expires:


11-2-2014



STATE OF Missouri)
)
COUNTY OF Macon)

AFFIDAVIT OF JAMES SIMON

I, James Simon, General Manager of Chariton Valley Telephone Corporation and Chariton Valley Telecom Corporation, hereby swear and affirm that I am authorized to speak on behalf of Chariton Valley and Chariton Valley Telecom and to attest to the veracity of the statements contained in this Complaint.


James Simon

State of Missouri)
)
County of Macon) SS

I, Audra E. Linebaugh, a Notary Public do hereby certify that on this 25th day of May, 2011 personally appeared before me James Simon who declared that all of the information contained herein above is true, to the best of his knowledge and belief.



AUDRA E. LINEBAUGH
My Commission Expires
May 27, 2014
Chariton County
Commission #10434277


Notary Public

My Commission expires:

May 27, 2014

STATE OF FLORIDA)
)
COUNTY OF CLAY)

AFFIDAVIT OF DEBORAH NOBLES

I, Deborah Nobles, Vice President of Regulatory Affairs of Choctaw Telephone Company and MoKAN DIAL Inc., hereby swear and affirm that I am authorized to speak on behalf of Choctaw and MoKAN and to attest to the veracity of the statements contained in this Complaint.


Deborah Nobles

State of Florida)
)
County of Clay) SS

I, Kim Jackson, a Notary Public do hereby certify that on this 25th day of May, 2011 personally appeared before me Deborah Nobles who declared that all of the information contained herein above is true, to the best of her knowledge and belief.


Notary Public

My Commission expires:

August 28, 2011



STATE OF Missouri)
COUNTY OF Cooper)

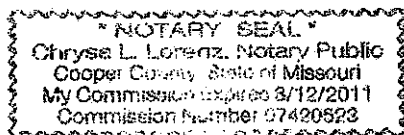
AFFIDAVIT OF TODD WESSING

I, Todd Wessing, General Manager of Mid-Missouri Telephone Company, a corporate division of Otelco Inc., hereby swear and affirm that I am authorized to speak on behalf of Mid-Missouri/Otelco and to attest to the veracity of the statements contained in this Complaint.

Todd Wessing
Todd Wessing

State of MISSOURI)
County of COOPER) SS

I, Chryse L. Lorenz, a Notary Public do hereby certify that on this 31st day of MAY, 2011 personally appeared before me Todd Wessing who declared that all of the information contained herein above is true, to the best of his knowledge and belief.



My Commission expires:

8-12-2011

Chryse L. Lorenz
Notary Public