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Sponsoring Party: MO PSC Staff
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MISSOURI PUBLIC SERVICE COMMISSION

REGULATORY REVIEW DIVISION

REBUTTAL TESTIMONY

OF

WILLIAM L. VOIGHT

HALO WIRELESS, INC.

FILE NO. TC-2012-0331

Jefferson City, Missouri

June 2012

Staff Exhibit No. *2*
Date *6-26-12* Reporter *PF*
File No. *TC-2012-0331*

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REBUTTAL TESTIMONY

OF

WILLIAM L. VOIGHT

HALO WIRELESS, INC.

CASE NO. TC-2012-0331

Q. Are you the same William L. Voight who filed direct testimony in this case on June 4th?

A. Yes, I am.

Q. What is the purpose of your rebuttal testimony?

A. My rebuttal testimony is responsive to the direct testimonies of Halo witnesses Wiseman and Johnson. These witnesses seek to have the Commission “focus on the facts in this case,”¹ and to “help the Commission...get back to the actual facts of this case.”² My testimony attempts to address what Messrs. Wiseman and Johnson allege to be the facts in this case.

Q. Please provide a summary of your rebuttal testimony.

A. Halo Wireless, Inc. (Halo) and Transcom Enhanced Services, Inc. (Transcom) are related companies who share certain management staff with certain unidentified common ownership; however, the companies claim to operate at arm’s length and do not have common boards. The Halo and Transcom business association involves nationwide call termination services provided to a variety of telephone providers.³ The arrangement calls for Transcom to aggregate the traffic destined for Missouri and to send such traffic to Halo over some type of

¹ Wiseman Direct; page 4, line 4.

² Johnson Direct; page 4, line 13.

³ Mr. Wiseman testifies that a very high percentage of the traffic Transcom sends to Halo originates from upstream end-users using IP-based CPE. Wiseman Direct; page 44, line 6.

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1 wireless microwave connection (denoted a "base station"). This arrangement constitutes a
2 "wireless in the middle" connection. Halo then sends the traffic to AT&T for call termination
3 to telephone customers throughout Missouri. Halo sends the traffic to AT&T under terms of
4 an Interconnection Agreement approved by the Missouri Public Service Commission. Under
5 terms of the Agreement, Halo is only supposed to send traffic that is originated by its own
6 end-users. Halo and Transcom are engaged in a scheme to avoid payment of call termination
7 charges to local telephone companies in Missouri. The Telecommunications Staff (Staff)
8 recommends the Commission (1) revoke the Interconnection Agreement between Halo and
9 AT&T because its operation, as applied by Halo and Transcom, discriminates against non-
10 party carriers; (2) find that Halo has breached its MoPSC approved contract with AT&T by
11 sending non-wireless originated traffic to AT&T and; (3) order AT&T to block Halo's traffic
12 traversing the Missouri LEC-to-LEC network pursuant to the Commission's Enhanced
13 Record Exchange rules.

14 Q. Mr. Wiseman exhorts the Commission to see through the Opposing Parties'
15 arguments and rule that Halo's traffic cannot be blocked. Mr. Wiseman encourages the
16 Commission to see through the allegations against Halo and not give them any weight. Mr.
17 Wiseman desires the Commission to focus on the substance of applicable law, and not lose
18 sight of the possibility that Halo, while acting in a non-traditional way, may be operating
19 completely within the law.⁴ What is your response?

20 A. Halo and Transcom collectively are engaged in business practices that
21 intentionally avoid payment of switched access charges. Halo claims to operate under a
22 Commercial Mobile Radio Service (CMRS) license yet its testimony has not shown that to be
23 the case. Halo claims to meet the statutory definition of a CMRS provider simply because its

⁴ Wiseman Direct; page 73, line 16.

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1 connection with Transcom is a wireless connection. In the Staff's view, the Transcom to Halo
2 connection represents a "wireless in the middle" connection that has not been shown to
3 constitute CMRS service. Even if Halo does possess a CMRS license (which is questionable),
4 Halo and Transcom are aggregating⁵ traffic that is non-wireline and, most importantly, Halo is
5 using its wireless interconnection agreement as a means to deliver traffic not covered by the
6 Agreement. In spite of its protestations, Halo is originating and placing traffic on the LEC-to-
7 LEC network and Halo, and Halo alone, is responsible for such traffic. For these reasons, the
8 Staff recommends the Commission (1) find that Halo has breached its Agreement with AT&T
9 and (2) order Halo's traffic to be blocked pursuant to the Commission's Enhanced Records
10 Exchange Rules (ERE).

11 Q. Please tell the Commission how Halo describes its service?

12 A. Halo claims to target its service to consumers and small businesses in unserved
13 and underserved rural areas where broadband coverage is limited.⁶ However, Halo only has
14 one customer. Halo describes itself as a company whose plans to deploy WiMAX service
15 have been derailed by the local telephone companies insistence that switched access charges
16 apply to Halo's traffic. Further, Halo is a company whose plan to use cash flows from its High
17 Volume service to fund a consumer product have been thwarted by (1) vendor delays in
18 getting FCC approval (2) litigation with local telephone companies (3) lack of name brand
19 recognition.⁷

⁵ Traffic aggregation refers to the practice of combining telephone calls from a variety of companies or individuals to obtain a bulk rate. Hotels, hospitals and payphone providers are historical examples.

⁶ Wiseman Direct; page 24, line 20.

⁷ *Id.* Page 20, Line 14

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1 Q. Mr. Voight, you work for the Missouri Department of Economic Development.
2 Please describe your experience and comment on Mr. Wiseman's statements about unserved
3 and underserved areas of Missouri.

4 A. In 2007, I participated in a comprehensive analysis of broadband deployment
5 in Missouri which culminated in the 2007 Commissioners' Report on Missouri Broadband
6 Availability. In 2010, I was appointed to serve on the Governor's MoBroadbandNow Task
7 Force.

8 In addition, broadband deployment in unserved and underserved areas of Missouri has
9 been a matter of high priority throughout my entire career at the MoPSC. In my opinion, state
10 laws and Commission policies for decades have encouraged development of facilities used to
11 provide, for example, what are now called "wireless backhaul", "fiber to the home", "fiber to
12 the curb" services and facilities with similar names and terms.

13 Q. Mr. Wiseman contends Halo's goal is to bring IP based services and advanced
14 broadband services to under-served and un-served areas of communities of Missouri.⁸ Based
15 on your experience, have you seen any evidence of Halo's participation in the Missouri
16 broadband market?

17 A. Although Halo's involvement would be welcomed, unfortunately I have not
18 seen any evidence that Halo provides broadband service to any area of Missouri, much less
19 any areas that are unserved or underserved. According to its testimony, Halo has only one
20 customer in Missouri, and that company is Transcom. If I understand its testimony correctly,
21 Halo may someday offer a wireless broadband service offering to consumers, but its current
22 offering is limited to a "high volume" wireless connection to its sole customer, Transcom.

⁸ *Id.*: Page 4, line 19

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1 Q. Based on your experience, would you characterize Halo's high volume
2 wireless connection to Transcom as a broadband offering?

3 A. No, not in my experience. It is my understanding that Halo's connection with
4 Transcom is a type of wireless connection referred to as Worldwide Interoperability for
5 Microwave Access or "WiMAX". Halo only uses this connection to receive calls from its
6 sister company, Transcom. If Halo were offering such connectivity to end-users who are
7 either mobile or stationary, especially if it were offered to end-users in unserved areas, I might
8 agree that Halo contributes to broadband deployment in Missouri. However, the mere
9 presence of a point-to-point microwave connection between two telephone companies does
10 not in and of itself constitute broadband deployment.

11 Q. How about so-called "middle mile" broadband? Does Halo contribute to that
12 type of broadband deployment?

13 A. I have not seen any evidence of that either. Again, by its own admission, Halo
14 has only one customer in Missouri and that is Transcom. If Halo were leasing or deploying
15 facilities to other utilities, such as Internet companies, wireless companies, Cable TV
16 companies, traditional telephone companies, or municipal utilities, I might have a different
17 opinion about Halo's contribution to the middle mile portion of broadband deployment. I
18 recognize and respect that Mr. Wiseman has a different view, but I am not able to substantiate
19 how Halo has contributed to broadband deployment in Missouri.

20 Q. What do Mr. Wiseman and Mr. Johnson characterize as the facts in this case?

21 A. Mr. Wiseman's facts primarily seem focused as follows: (1) Halo has
22 interpreted and applied telecommunications laws and rules in a novel, but legal way; (2)
23 access charges do not apply to Halo's traffic; (3) Halo provides broadband to the benefit of

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1 Missouri consumers; (4) Halo has not breached its Interconnection Agreement with AT&T
2 Missouri; (5) Halo does not disguise the jurisdictional nature of its traffic; (6) Halo does not
3 believe the MoPSC ERE rule is fair.⁹

4 Mr. Johnson is under contract with Transcom. At pages four and five of his direct
5 testimony, Mr. Johnson lays out what he considers to be the obvious basic facts in this case.
6 Those are: (1) Transcom provides an enhanced service; (2) Federal law makes it clear that
7 Enhanced Service Providers (ESPs) are not telecommunications carriers; rather, ESP's are
8 end-users; (3) the FCC "view[s] the..world as divided between telecommunications services
9 and those who use them;" (4) Transcom's facilities constitute customer premise equipment
10 which [somehow] form the regulatory and legal foundation for Transcom's position that its
11 activities fall outside the MoPSC's jurisdiction.

12 According to Mr. Johnson, Transcom is a "wholesale" provider of "enhanced"
13 services which connects to Halo supplied equipment for the purposes of terminating telephone
14 calls to end-users of the Opposing Parties in this case.¹⁰ Halo's only customer is Transcom.¹¹
15 Mr. Johnson obviously believes his client's activities do not come within the oversight of the
16 MoPSC.

17 Q. Mr. Johnson disavows the claim that Transcom is providing a
18 telecommunications service. He states that adherents of that view have it "exactly backwards"
19 – that Transcom has "never supplied" telecommunications service to begin with.¹² What is
20 your response?

⁹ *Id.* Page 4, line 13

¹⁰ Johnson Direct; page 8, line 2 & page 22, line 2 also page 20, line 5 & page 23, line 9.

¹¹ Wiseman Direct; page 6, line 21.

¹² Johnson Direct; page 18, line 22

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1 A. The notion that Transcom is not a telecommunications company is a relatively
2 recent development.

3 Q. Please explain.

4 A. Transcom was certificated as an interexchange (a/k/a "long distance") carrier
5 by the MoPSC in Case No. XA-2003-0234 on February 14, 2003. As recently as 2008 and
6 2009, Transcom was paying assessments to the MoPSC for the jurisdictional revenues it
7 obtained for providing telecommunications services in Missouri. Then, more than five years
8 after obtaining certification and approval of its long distance telecommunications tariff
9 service offering, on December 30, 2008, the Commission's Secretary received a letter from
10 Transcom's attorney stating that Transcom had no customers in Missouri and that it
11 (Transcom) was exiting the United States market.

12 Q. What did the Commission do when it received Transcom's request to cancel
13 Transcom's long distance telecommunications service certificate and Commission-approved
14 long distance message telecommunications service tariff?

15 A. Transcom did not provide any copies of its customer notification to cease
16 operations because it stated it did not have any customers in Missouri. Because Transcom
17 stated it did not have any customers in Missouri, and because Transcom was current on
18 payments of fees and assessments, the Staff relied on Transcom's representations and
19 recommended Transcom's certificate and long distance tariff be cancelled. On March 30,
20 2009, Deputy Chief Regulatory Law Judge Nancy Dippell granted Staff's recommendation
21 and cancelled Transcom's certificate and tariff on behalf of the Commission (effective April
22 9, 2009).

23 Q. What happened after that?

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1 A. Correspondence advising of the cancellation status mailed to Transcom's
2 address in Irving, Texas was returned by the Post Office to the MoPSC as undeliverable.

3 Q. Has the Staff had any contact or involvement with Transcom since cancellation
4 of its Missouri telecommunications certificate in 2009?

5 A. On June 14th of this year a person identifying herself as a Halo representative
6 contacted Staff inquiring about regulatory compliance matters. To my knowledge, the Staff
7 has had no other contact with Transcom or any of its representatives. However, recent events
8 and circumstances occurring in the industry have caused me to investigate the call-completion
9 activities of Transcom.

10 Q. Please explain.

11 A. Pursuant to Case No. TW-2012-0112, the Staff was ordered to investigate and
12 file a report regarding call routing and call completion problems and complaints occurring in
13 Missouri. The case was opened - not as a contested case - but as a working case to address the
14 local and regional impacts of problems that are being reported not only in Missouri, but other
15 jurisdictions as well. At that time (Fall 2011) I began to notice a lot of news and trade
16 publication reporting of call completion problems occurring in other states and on October 18,
17 2011, the FCC conducted a "Rural Call Completion" Webcast workshop, which I followed
18 live and have since viewed again on more than one occasion. On November 7, 2011, I
19 conducted a similar workshop in Missouri (also Webcast) and, I participated in at least one
20 ATIS related panel discussion in which I learned that that entity had taken on the issue of call
21 completion as a high priority.¹³

22 Q. Where has Staff's investigation led insofar as Transcom is concerned?

¹³ ATIS is the Alliance for Telecommunications Industry Solutions, a standards organization that develops technical and operational standards for the telecommunications industry.

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1 A. Based on my readings and interaction with the industry, I observed a lot of
2 attention surrounding something characterized as “least cost routers” or “3rd Tier Carriers”.
3 My inquiry led to preliminary reviews of perhaps three or four companies and at some point, I
4 learned of Transcom. On October 20, 2011, I visited Transcom’s Web site and printed copies
5 of useful information describing the Company’s service offerings and other helpful
6 information about the company. A copy of those pages is attached as Schedule WLV 1.

7 Q. Please describe Schedule WLV 1 insofar as it pertains to Transcom’s
8 description of its service offerings as you witnessed on Transcom’s Web site last November.

9 A. Perhaps not surprisingly, Transcom holds itself out to provide services
10 identical to those it offered under terms of the Missouri PSC certificate it once held – services
11 for which in December of 2008 Transcom stated it had no Missouri customers. These services
12 are similar, if not identical to, those which in its original Application Transcom committed to
13 providing in Missouri. The legal name for such services is referred to in Missouri as
14 “interexchange telecommunications services.” More specifically, Transcom’s original
15 application and tariff used marketing terminology to refer to the services and was
16 characterized by household names such as direct outbound 1+ dialing, “Toll-Free” 8XX
17 service, [long distance] travel cards and prepaid calling cards.

18 Schedule WLV 1 demonstrates that by its own admission, Transcom provides “end-to-
19 end” voice termination services which emphasizes “domestic call termination services within
20 the United States” and is “one of the largest terminators of voice traffic in the world.”
21 Transcom claims that its end-to-end connectivity gives its customers a competitive advantage
22 and that it also provides Toll Free [telephone] numbers, local DID’s and, Toll-Free call
23 termination services.

1 Schedule WLV 1 demonstrates, conclusively, one of two things. Either Transcom is
2 not being forthcoming in its Web-based advertisements or, it continues to provide
3 telecommunications services in Missouri just as it did previously under terms of its
4 authorization from the MoPSC. The only problem with the latter, obviously, is that Transcom
5 no longer has certification and is in all likelihood, operating contrary to Missouri statutes.

6 Q. Mr. Wiseman states that Halo's business model is not a scam or scheme
7 because it has a wireless system deployed to accept calls from Transcom.¹⁴ How do you
8 respond?

9 A. Mr. Wiseman states that Halo's business model is "very non-traditional" and I
10 do not dispute him on that point.¹⁵ However, numerous access avoidance schemes have been
11 employed to circumvent payment for use of local telephone networks, and I would suspect
12 that most of them are non-traditional. In Mr. Wiseman's view, Halo's use of WiMAX
13 wireless technology permits Halo to claim the intraMTA switched access charge exemptions.
14 The company's use of wireless technology to reoriginate calls and terminate them via local
15 interconnection trunks may, as the Companies' represent, be the wave of the future. However,
16 Transcom and Halo cannot do so to avoid lawful payment to other carriers. As such, no matter
17 how novel, dumping calls off on local networks without payment is, at least in this point in
18 time, little more than an access avoidance scheme.

19 Q. Mr. Wiseman uses a Starbucks example to promote the fact that consumers
20 prefer WiMAX connectivity to hardwired connections. How do you respond?

21 A. The local Jefferson City Starbucks has seating for 12 people. If Starbucks is to
22 be compared, a more apt example would be taking a call from California and running it

¹⁴ Wiseman Direct; page 16, line 13.

¹⁵ *Id.* Page 11, line 7.

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1 through the Jefferson City Starbucks, then sending it to Southwest Bell (d/b/a AT&T
2 Missouri) for ultimate termination to someplace like Hayti, Missouri. The only difference is
3 instead of terminating one telephone call from California, Mr. Wiseman's company would
4 route millions of calls through our local Starbucks, then turn around and claim it came from
5 someone who was simply drinking coffee!

6 My point is that Mr. Wiseman's example is irrelevant. Transcom is Halo's only
7 [paying] customer¹⁶ and what we are talking about here has nothing to do with providing
8 service to consumers.

9 Q. Mr. Wiseman states that if it would satisfy the Commission, Halo would be
10 happy to relocate Transcom's equipment to satisfy perceived engineering requirements of
11 AT&T.¹⁷ How do you respond?

12 A. The distance between equipment owned or leased by and between Transcom
13 and Halo is irrelevant. This case is about Halo's continued attempts to use other people's
14 property for free. Mr. Wiseman's statement should be viewed by the Commission as a
15 diversion from the real issues at stake in this case.

16 Q. Mr. Wiseman states that Halo hired a Dallas-based marketing and public
17 relations agency to manage its consumer-centric sales and marketing efforts. Further, Halo's
18 marketing efforts are comprised of automated account activation, telesales, customer service,
19 a direct sales staff and "mobile service intentions". Mr. Wiseman states that he has personally
20 spent time knocking on doors to gain a deeper understanding of Halo's customer's broadband
21 service requirements.¹⁸ How do you respond?

¹⁶ *Id.* Page 11, line 10.

¹⁷ *Id.* Page 17, line 20.

¹⁸ *Id.* Page 18, lines 3-20.

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1 A. Halo's only customer is Transcom, a company who withdrew its MoPSC
2 certification on the basis of having no customers in Missouri. It's difficult for me to concede
3 that Mr. Wiseman knocked on the doors of anyone in Missouri.

4 Q. Mr. Wiseman states that nationwide, Halo has approximately only 35 non-
5 paying retail customers. How do you respond?

6 A. There's certainly nothing wrong with using non-paying customers to beta trial
7 new services. But whether (as it claims) the lack of customers who actually pay for services is
8 attributed to litigation, its vendors, delayed FCC certification, or to Halo itself or some other
9 reason, the fact is clear that Halo and Transcom are engaged in an access avoidance scheme.
10 The number of customers it has is largely irrelevant; moreover, whether Halo considers its
11 customers to be retail or wholesale is also irrelevant.

12 Q. Halo contends that the Commission does not have jurisdiction of Halo's
13 services (Halo's Formal Complaint; paragraph 8). Halo further contends that the ERE rules do
14 not apply because federal law preempts blocking of Halo's traffic. Please summarize your
15 reading of the positions taken by Halo witnesses Wiseman and Johnson which Halo uses to
16 support its claim that the MoPSC does not have jurisdiction in this matter. Then, use your
17 experience to describe the Staff's Response on the matters addressed by the Halo witnesses.

18 (1) Halo's view: Neither Halo nor Transcom is a common carrier; therefore the
19 companies do not come under the jurisdiction of the MoPSC.

20 Response: The MoPSC's primary authority extends to telecommunications companies
21 and the services those companies provide. The Commission's telecommunications authority
22 has never hinged on the concept of common carriage. Indeed, the very definition of common
23 carrier was removed from the statutes governing the PSC in 1996 and prior to that, the

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1 definition of common carrier did not pertain to telecommunications but rather, industries such
2 as railroads and steamboats. Historically, the Missouri General Assembly has updated
3 telecommunications laws as times have changed and as the need has arisen. For example, it is
4 clear that the definition of telecommunications services does not include Interconnected VoIP
5 service, yet the MoPSC was given specific authority to, among other matters, hear and resolve
6 complaints involving exchange access service regardless of whether a user of such service
7 (such as a VoIP provider) is certificated by the PSC (392.550.4.(5)). I realize other
8 jurisdictions may not have modernized telecommunications laws so thoroughly or at quite the
9 same pace, but at least as far as Missouri is concerned, Halo's reliance on common carrier
10 laws appears outdated and misplaced.

11 (2) Halo position: Halo is not an IXC because Halo is not acting like or otherwise
12 holding itself out to be an IXC.

13 Response: Based on my experience, the only determinant is what is actually occurring.
14 It matters not what one claims to be doing or not doing. If either Halo or Transcom are
15 performing as an IXC, then one or the other (or both) is an IXC.

16 (3) Halo's view: Mr. Wiseman claims that Halo is not an IXC because it is not
17 providing telephone toll service.¹⁹ Moreover, the Telecommunications Act of 1996 defines the
18 term telephone toll service and Halo does not provide or otherwise charge for such service.

19 Response: Based on my experience, the presence of separate charges for
20 interexchange calls is irrelevant to these proceedings as is, irrespective of the source, the
21 definition of telephone toll service. Telephone toll service is not even defined in Missouri law
22 and in today's market, many telephone customers purchase "toll service" as part of a bundle
23 of services. Whether or not a separate price appears on an end-user's bill for any given call

¹⁹ *Id.* Page 27, line 12.

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1 has no bearing on the services being performed by Halo and Transcom. Mr. Wiseman's
2 claims are irrelevant.

3 (4) Halo view: The ERE rules cannot apply to Halo because Halo is not a
4 telecommunications company.

5 Response: Whether or not the ERE rules apply directly to Halo and Transcom depends
6 in large measure on whether or not those entities are providing telecommunications service.
7 The only plausible explanation given for Halo by Mr. Wiseman is that Halo is not a
8 telecommunications company and Halo does not provide a telecommunications service,
9 ostensibly because Halo has a CMRS license. However, Mr. Wiseman has provided no
10 evidence to support Halo's assertion that the landline calls traversing its network are doing so
11 under the auspices of a CMRS license. Rather, Mr. Wiseman merely gives his
12 "understanding" that Halo has a CMRS license.

13 (5) Halo's view: Halo asserts that because it provides commercial radio services, the
14 Commission may not exert jurisdiction over its services.

15 Response: Based on my experience, I would not expect the Commission to attempt
16 jurisdiction over Halo's [FCC] "licensed" or "unlicensed wireless services". Rather, I would
17 expect the Commission to exert jurisdiction over Missouri's LEC-to-LEC network and,
18 should it occur, to take action to prevent financial and technological harm to that network.
19 Indeed, in its Order of Rulemaking, the Commission has already found that the ERE rules do
20 not regulate wireless carriers.

21 The ERE Rules "do not regulate wireless carriers, as the Joint Wireless
22 Carriers and Sprint suppose. Rather, what the rules would regulate is the use of
23 the LEC-to-LEC network – not the wireless carriers... We reject Joint Wireless
24 Carriers' apparent contention that nonregulated carriers may use the Missouri
25 LEC-to-LEC network without regard to service quality, billing standards, and

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1 in some instances, with an apparent disregard for adequate compensation.” 30
2 Mo. Reg. 1373, 1377, June 15, 2005.

3
4 (6) Halo’s view: Halo asserts that the ERE rules do not apply primarily because Halo
5 has a federal right to interconnection.

6 Response: Based on my experience, Halo’s right to interconnection does not extend to
7 Halo receiving free telephone service. Halo’s right to interconnection, either directly or
8 indirectly, does not permit it to use other people’s property for free, which is what occurs
9 under Halo’s business model.

10 (7) Halo’s view: Halo asserts that any order by the MoPSC to authorize blocking
11 would deny Halo’s federal interconnection right.

12 Response: The Commission should order Halo’s Feature Group C traffic to be blocked
13 because, unlike other wireless companies in Missouri who operate under terms of wireless
14 interconnection agreements, the evidence in this case indicates Halo is not paying for use of
15 the FGC network. If Halo desires to continue its indirect interconnection in Missouri, it may
16 do so over the Feature Group D network, such as is contemplated by 4 CSR 240-29.130 (1).

17 (8) Halo’s view: Halo asserts that a separate interconnection right extends to wireless
18 carriers that predates the amendments made to the Telecommunications Act in 1996.

19 Response: This statement may be true but it is also irrelevant; based on my experience,
20 nothing in the Act gives Halo the right to free telephone service. Rather, Halo’s rights extend
21 only to reasonable and non-discriminatory service.

22 (9) Halo’s view: Halo complains that the ERE rule would permit blockage of interstate
23 as well as intrastate traffic.

24 Response: Because it is not possible in all circumstances to know precise cell site
25 locations for call routing purposes, special provisions were incorporated into the ERE rule to

1 permit interstate delivery of legitimate wireless traffic. However, it is questionable whether
2 that part of the Rule applies to Halo because so much of Halo's traffic appears to be non-
3 wireless traffic. Moreover, Halo's traffic reorigination and access avoidance scheme
4 superimposes interstate traffic onto the intrastate network on such a massive scale that it may
5 be impossible to weed out that which is interstate and that which is intrastate. To the extent
6 Halo may be engaged in the activity, delineation would be further complicated anytime
7 Calling Party Number is not supplied along with the call, regardless of the reason.
8 Consequently, Halo is correct that the blocking provisions would impact the interstate calls
9 that it is reoriginating. Of course, Halo can easily avoid blockage of its interstate traffic by
10 simply routing its traffic through the interstate network of an interexchange carrier point of
11 presence, just as the ERE rule contemplates.

12 (10) Halo's view: Halo contends it is not placing traffic on the LEC-to-LEC network
13 but rather is originating its traffic via Type 2 interconnection arrangements.

14 Response: Halo claims exemption of the ERE rule because it has trunks going to
15 AT&T.²⁰ This is no different than any other telephone company. The ERE rules do not
16 become inapplicable because Halo connects its telephone equipment with AT&T's telephone
17 equipment via the use of trunks.

18 (11) Halo's view: Halo is not an originating carrier. Therefore, Sections 29.120 and
19 29.130 of the ERE rule cannot be used to block Halo's originating traffic.²¹

20 Response: Mr. Wiseman's statement is inconsistent with other testimony in which he
21 claims that Halo is the originating carrier.²² This aspect of his testimony seems to invoke

²⁰ *Id.* Page 32, line 8.

²¹ *Id.* Page 38, line 11.

²² *Id.* Page 77, line 13.

1 different positions depending on whether the subject is traffic blockage or Halo's desire to
2 populate the Charge Number (CN) field with Transcom's Billing Telephone Number (BTN).

3 (12)Halo's view: Halo claims further exemption because the ERE rules specify the
4 engineering signaling options for TDM trunking requirements.²³

5 Response: Mr. Wiseman criticizes the ERE rule for specifying the signaling
6 requirements of the AT&T tandem switch with which Halo is connecting, yet fails to specify
7 what signaling type Halo is employing. The ERE rules do not become invalid simply because
8 Halo fails to state its signaling type.

9 (13) Halo's view: Halo claims it is not placing traffic on the LEC-to-LEC network.
10 Halo claims the ERE rule shoehorns its ability to deliver traffic on the LEC-to-LEC
11 network.²⁴

12 Response: Halo and Transcom are reoriginating traffic destined for termination to end-
13 users in Missouri. Transcom has chosen to cancel its MoPSC certificate and Halo is now
14 processing Transcom's aggregated traffic by routing it over AT&T's tandem switches for
15 termination. Halo is engaging in these activities without regard for payment for the
16 termination services it is receiving from Missouri's local telephone companies. The sole
17 carrier with whom Halo has a written agreement, AT&T Missouri, has alleged material
18 breaches of the contract, and wants to be excused from further performance. These allegations
19 state that Halo is (A) sending large volumes of non-wireless-originated traffic to AT&T, and
20 that (B); Halo has altered and/or deleted the Calling Party Number (CPN) identification in a
21 manner that disguises the actual origination point of the call. Although Halo may have
22 recently changed its CPN practices, it seems undisputable that Halo is sending large amounts

²³ *Id.* Page 32, line 9.

²⁴ *Id.* Page 32, line 16

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1 of non-local and inter-LATA wireline as well as inter-MTA wireless traffic to AT&T. It
2 seems equally undisputed that much of Halo's traffic is delivered without compensation to
3 telephone companies who were not made a part of the Halo and AT&T Interconnection
4 Agreement. For these reasons, the Staff asks the Commission to permit AT&T to block
5 Halo's traffic pursuant to 4 CSR 240-29.030 and 4 CSR 240-29.130 of the ERE rules. Staff
6 further requests the Commission to revoke the Agreement between Halo and AT&T due to
7 the discriminatory practices that are occurring against third-party companies who were not a
8 part of the Agreement.

9 (14) Halo's view: Halo claims that it cannot be held responsible for its actions because
10 AT&T's tandem switch is set up to transit traffic to the 3rd party telephone companies
11 connected to those tandems. Halo claims that it did not ask AT&T for such connectivity and
12 that AT&T's actions are unilateral. Mr. Wiseman attaches significance to the nature of
13 tandem switch arrangements.²⁵

14 Response: This statement seems almost incredulous. On the one hand, Halo has filed a
15 complaint to prevent the transiting company (AT&T) from blocking Halo's transiting traffic.
16 Now, under oath, Mr. Wiseman claims indifference to the very transiting service that is the
17 subject of the blocking!

18 (15) Halo's view: Mr. Wiseman claims the ERE rules cannot apply to Halo because
19 Halo is not a telecommunications company.

20 Response: As I have previously indicated in item 4 above, the Rules do not regulate
21 the wireless telephone companies, which Halo claims to be included among. Rather,
22 Missouri's ERE rules simply regulate how various entities (including wireless entities) use the
23 LEC-to-LEC portion of Missouri's public switched telephone network.

²⁵ *Id.* Page 32, line 15.

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1 If Halo continues to insist that its services do not fall within the jurisdiction of the
2 MoPSC, then I would at least liken the situation to be similar to the Commission's lack of
3 oversight of customer premises equipment. While it is true that the Commission does not
4 regulate customer premises equipment, that does not necessarily mean the Commission
5 cannot order customer premises equipment to be disconnected. This may be especially true,
6 for example, if someone neglects to pay their telephone bill or if someone connects faulty or
7 inferior equipment that harms the network.

8 (16) Halo's view: Mr. Wiseman offers his "understanding" that Halo provides
9 commercial mobile radio services.

10 Response: Halo has offered no evidence to support its claim that its landline call
11 reorigination scheme is operating pursuant to the terms of a CMRS license granted by the
12 FCC under the commercial mobile radio service rules and regulations. Mr. Wiseman's
13 assertions that Halo is a CMRS provider are unsubstantiated. The ERE rule applies to the
14 types of telecommunications services being offered by the combination of Halo and
15 Transcom. Those services include many landline originated calls that have nothing to do with
16 CMRS service.

17 (17) Halo's view: Mr. Wiseman testifies extensively over the furor surrounding Halo's
18 use of call detail records and assertions that Halo manipulates the data and disguises the
19 nature of its traffic. Mr. Wiseman calls the assertions absurd and asks the Commission to see
20 through the allegations. Mr. Wiseman goes on to say that Halo changed its practice because
21 the FCC issued an order calling its practices into question.²⁶

22 Response: Delivery of Caller Identification is important to consumers. Delivery of
23 parameters such as ANI and CN are important in many instances for proper billing and

²⁶ *Id.* Page 72, line 16.

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William L. Voight

1 routing. The ERE rule was written in 2005 with those matters in mind. Now, seven years
2 later, Halo claims to have a modern IP-based network. It is difficult to imagine how Halo's
3 equipment could not perform such basic functions as delivery of Caller Identification.

4 Q. Based on the information relayed in your testimony, what is Staff's
5 recommendation in this proceeding?

6 A. The Staff recommends the Commission (1) revoke the Interconnection
7 Agreement between Halo and AT&T because its operation, as applied by Halo and Transcom,
8 discriminates against non-party carriers; (2) find that Halo has breached its MoPSC approved
9 contract with AT&T by sending non-wireless originated traffic to AT&T and; (3) order
10 AT&T to fulfill its obligation under the ERE rule and block Halo's traffic traversing the
11 Missouri LEC-to-LEC network.

12 Q. Does this conclude your rebuttal testimony?

13 A. Yes, it does.


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That is our core service offering. Transcom provides turn-in solutions throughout the world with a focus on North America. Transcom has an global footprint that covers about 70% of the US Population. Customers looking for a TDM interconnect can connect to Transcom's voice-based network at the following switch locations:

Atlanta

Dallas

Los Angeles

New York

Customers who do not have the time or desire to maintain an in-house connection can connect to us via our Big-time TBC (Switch Under Control). We support most protocols such as TDM and SIP taking the usual common.

Voice Origination Services

Transcom provides origination services using toll-free numbers and toll-free numbers. Transcom will pass the originated call to the Customer using a dedicated IP address or an SIP number. Customer can connect to the above switch locations for this product also.

Toll-Free Termination Services

Transcom provides that many of our customers have a problem terminating toll-free numbers that end-user have called. This is a specific trouble many emergency-based IP telephony providers. Customers can direct their outbound toll-free calling for Transcom by terminate.

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Background Management

About Us (Background)

Founded in 1990, Transcom Enhanced Services operates facilities in Dallas, New York, Atlanta and Los Angeles, with its corporate headquarters in Fort Worth. While specializing in domestic call termination within the United States, Transcom boasts a current cost rate of over six billion minutes per year, making it one of the largest terminators of voice traffic in the world.

Customers

Typical customers include consumer and enterprise VoIP (Voice over Internet Protocol) providers (e.g., ISPs, ILECs (Incumbent Local Exchange Carriers), DSL (Digital Exchange Carriers), foreign FLEs, calling card operators, wireless carriers, ISPs (Internet Service Providers) and content providers. Customers connect to Transcom at one of our switch locations in Atlanta, Dallas, Los Angeles or New York, or via an IP connection (SIP or H.323). Transcom prides itself in its flexibility to meet the needs of its customers and will do whatever it takes to assure customer satisfaction.

Network Architecture

Transcom's network is based primarily on the Asterisk soft switch platform, utilizing FlexTone as the Session Border Controller (SBC). Other partners include Grandstream for IP routing and switching. Transcom employs its own network operations center which works 24/7/365 to ensure maximum network availability all-year long.

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Our **Goal** is to provide our **Customers** with:

