

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Halo Wireless, Inc.,)	
)	
Complainant)	
)	
v.)	
)	
Craw-Kan Telephone Cooperative, Inc.,)	
Ellington Telephone Company,)	
Goodman Telephone Company,)	
Granby Telephone Company,)	Case No. TC-2012-0331
Iamo Telephone Company ,)	
Le-Ru Telephone Company,)	
McDonald County Telephone Company,)	
Miller Telephone Company,)	
Ozark Telephone Company,)	
Rock Port Telephone Company,)	
Seneca Telephone Company,)	
Alma Communications Co. d/b/a Alma Tel.. Co.,)	
Choctaw Telephone Company,)	
MoKan Dial, Inc.,)	
Peace Valley Telephone Company, Inc., and)	
Southwestern Bell Telephone Company, d/b/a)	
AT&T Missouri,)	
)	
Respondents.)	

CRAW-KAN TELEPHONE COOPERATIVE ET AL.'S JOINT
ANSWER TO HALO WIRELESS, INC.'S FIRST AMENDED COMPLAINT
EXPEDITED RELIEF REQUESTED

COME NOW Respondents Craw-Kan Telephone Cooperative, Inc., Ellington Telephone Company, Goodman Telephone Company, Granby Telephone Company, Iamo Telephone Company , Le-Ru Telephone Company, McDonald County Telephone Company, Miller Telephone Company, Ozark Telephone Company, Rock Port Telephone Company, Seneca Telephone Company, and Peace Valley Telephone Company, Inc. (hereinafter "Craw-Kan Telephone et al." or "Respondents"), and for their

Joint Answer to Halo Wireless, Inc.'s ("Halo") First Amended Complaint and Affirmative Defenses state to the Missouri Public Service Commission (Commission or PSC) as follows:

ANSWER

Respondents Craw-Kan Telephone Cooperative et al. deny all allegations in Halo's Complaint not specifically admitted herein.

I. SUMMARY

1. With respect to the averments contained in numbered paragraph one (1) of the Complaint, Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph one and therefore deny the same. With respect to the averments regarding Transcom Enhanced Services, Inc. ("Transcom"), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

2. Respondents admit that AT&T has an interconnection agreement ("ICA") with Halo. Respondents deny that the ICA was "approved" by the Commission. Respondents admit that they sent billing statements to Halo based upon their Commission-approved rates for such traffic. With respect to the averments regarding federal law, these averments are legal assertions and conclusions and, as such, no admission or denial is required. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph two and therefore deny the same.

3. The United States Bankruptcy Court for the Eastern District of Texas (hereinafter "Bankruptcy Court") Stay Orders and United States Court of Appeals for the

Fifth Circuit's procedural schedule speak for themselves and no response is necessary. With respect to the averments regarding federal law, these averments are legal assertions and conclusions and, as such, no admission or denial is required. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph three (3) and therefore deny the same.

4. Respondents admit that they issued blocking notices pursuant to the Commission's Enhanced Record Exchange (ERE) Rule in March of 2012 to Halo due to Halo's: (a) failure to pay invoices for post-bankruptcy traffic delivered by Halo; (b) continued post-bankruptcy transmission of interLATA wireline telecommunications traffic in violation of the ERE Rule; and/or (c) failure to provide, or altering, originating caller identification information for post-bankruptcy traffic. Copies of those notices are included as Attachments 1-10. Respondents deny that they have conducted any "self-help collection" activities. Rather, Respondents further answer that they have followed the procedures set forth in the Commission's ERE Rule to address Halo's non-payment for the use of Respondents' networks. Exhibits A through D speak for themselves. With respect to the averments regarding the Bankruptcy Court's Stay Orders, these averments are legal assertions and conclusions and, as such, no admission or denial is required. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph four and therefore deny the same.

5. Respondents admit that they have not been able to resolve their disputes with Halo. Respondents further answer that Halo's sole communication in response to

Respondents' blocking notices was a letter to Respondents' counsel which is attached as Exhibit G to Halo's First Amended Complaint. Respondents further state that no response was or is necessary to Halo's letter as Respondents' grounds for blocking were already enumerated in the blocking notices as required by the ERE Rule. Halo's letter is simply further evidence of Complainant's transparent litigation strategy in Missouri to prolong its free ride on Respondents' rural telecommunications networks.

6. With respect to the averments regarding the Bankruptcy Court's Stay Orders, these averments are legal assertions and conclusions and, as such, no admission or denial is required. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore deny the same.

7. Respondents admit that AT&T's notices indicate that Halo's traffic would begin being blocked under the ERE Rule beginning in April of 2012. With respect to the other averments contained in numbered paragraph seven (7) of the Complaint, Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore deny the same. With respect to Halo's legal arguments, these averments are legal assertions and conclusions and, as such, no admission or denial is required.

8. Respondents admit asserting that the Commission has jurisdiction over Respondents' blocking request under the ERE Rule. With respect to Halo's arguments in numbered paragraph eight (8), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

9. Halo's arguments in numbered paragraph nine (9) are legal assertions and conclusions and, as such, no admission or denial is required.

II. PARTIES

10. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph ten (10) and therefore deny the same. Respondents further state that Halo's authorization to do business in Missouri as a foreign corporation was administratively dissolved or revoked by the Missouri Secretary of State's Office on August 25, 2010.

11. Craw-Kan Telephone Cooperative, Inc. ("Craw-Kan") admits that it is a Kansas corporation with its principal place of business at P.O. Box 100, 200 North Ozark, Girard, Kansas, 66742. Craw-Kan admits that it may be served with process by serving its registered agent. Craw-Kan admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). Craw-Kan further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

12. Ellington Telephone Company ("Ellington") admits that it is a Missouri corporation with its principal place of business at P.O. Box 400, 200 College Avenue, Ellington, Missouri, 63638. Ellington admits that it may be served with process by serving its registered agent. Ellington admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). Ellington further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

13. Goodman Telephone Company ("Goodman") admits that it is a Missouri corporation with its principal place of business at P.O. Box 592, Seneca, Missouri, 64865. Goodman admits that it may be served with process by serving its registered

agent. Goodman admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). Goodman further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

14. Granby Telephone Company (“Granby”) admits that it is a Missouri corporation with its principal place of business at P.O. Box 200, Granby, Missouri, 64844. Granby admits that it may be served with process by serving its registered agent. Granby admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). Granby further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

15. Iamo Telephone Company (“Iamo”) denies that it is a Missouri corporation. Rather, Iamo Telephone Company is an Iowa corporation with its principal place of business at P.O. Box 368, 104 Crook Street, Coin, Iowa, 51636. Iamo admits that it may be served with process by serving its registered agent. Iamo admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). Iamo further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

16. Le-Ru Telephone Company (“Le-Ru”) admits that it is a Missouri corporation with its principal place of business at P.O. Box 147, Stella, Missouri, 64865. Le-Ru admits that it may be served with process by serving its registered agent. Le-Ru admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). Le-Ru further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

17. McDonald County Telephone Company (“McDonald County”) admits that it is a Missouri corporation with its principal place of business at P.O. Box 207, 704 Main Street, Pineville, Missouri, 64856-0207. McDonald County admits that it may be served with process by serving its registered agent. McDonald County admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). McDonald County further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

18. Miller Telephone Company (“Miller”) admits that it is a Missouri corporation with its principal place of business at P.O. Box 7, 213 East Main Street, Miller, Missouri, 65707. Miller admits that it may be served with process by serving its registered agent. Miller admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). Miller further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

19. Ozark Telephone Company (“Ozark”) admits that it is a Missouri corporation with its principal place of business at P.O. Box 547, Seneca, Missouri, 64865. Ozark admits that it may be served with process by serving its registered agent. Ozark admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). Ozark further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

20. Rock Port Telephone Company (“Rock Port”) admits that it is a Missouri corporation with its principal place of business at P.O. Box 147, Rock Port, Missouri, 64482. Rock Port admits that it may be served with process by serving its registered agent. Rock Port admits that it is an incumbent local exchange carrier as defined by 47

U.S.C. §251(h). Rock Port further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

21. Seneca Telephone Company (“Seneca”) admits that it is a Missouri corporation with its principal place of business at P.O. Box 329, Seneca, Missouri, 64865. Seneca admits that it may be served with process by serving its registered agent. Seneca admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h) Seneca further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22).

22. Respondents admit that W.R. England, III of the law firm Brydon, Swearingen & England, P.C. has acted as Respondents’ authorized representative in their dealings with Halo.

23. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-three (23) and therefore deny the same.

24. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-four (24) and therefore deny the same.

25. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-five (25) and therefore deny the same.

26. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-six (26) and therefore deny the same.

27. Peace Valley Telephone Company, Inc. admits that it is a Missouri corporation with its principal place of business at P.O. Box 9, 7101 State Route W, Peace Valley, Missouri, 65788. Peace Valley admits that it is an incumbent local exchange carrier as defined by 47 U.S.C. §251(h). Peace Valley further states that it is an incumbent local exchange telecommunications company as defined by Missouri law. §386.020(22). Peace Valley admits that W.R. England, III of the law firm Brydon, Swearingen & England, P.C. has acted as Respondents' authorized representative in their dealings with Halo.

28. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph twenty-eight (28) and therefore deny the same.

III. BACKGROUND

A. Regulatory Framework

29. With respect to Halo's legal arguments in numbered paragraph twenty-nine (29), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

30. With respect to Halo's legal arguments in numbered paragraph thirty (30), these averments are legal assertions and conclusions and, as such, no admission or denial is required. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore deny the same.

31. With respect to Halo's arguments in numbered paragraph thirty-one (31), these averments are legal assertions and conclusions and, as such, no admission or

denial is required. Respondents admit that they are seeking to block Halo's traffic because of Halo's continued use of Respondents' networks without payment of Respondents' Commission-approved rates and Halo's continued violations of the ERE Rule. Respondents deny all remaining allegations contained in paragraph thirty-one (31).

32. With respect to Halo's legal arguments in numbered paragraph thirty-two (32), these averments are legal assertions and conclusions and, as such, no admission or denial is required. Respondents deny all remaining allegations contained in paragraph thirty-two (32).

33. The averments in numbered paragraph thirty-three (33) are legal assertions and conclusions and, as such, no admission or denial is required.

34. The averments in numbered paragraph thirty-four (34) are legal assertions and conclusions and, as such, no admission or denial is required.

35. The averments in numbered paragraph thirty-five (35) are legal assertions and conclusions and, as such, no admission or denial is required.

B. Halo's Business

36. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph thirty-six (36) and therefore deny the same. Respondents specifically deny that Halo was "awarded" an RSA. Respondents further state that Halo's authorization to do business in Missouri as a foreign corporation was administratively dissolved or revoked by the Missouri Secretary of State's Office on August 25, 2010. With respect to Halo's legal arguments

in numbered paragraph thirty-six (36), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

37. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph thirty-seven (37) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph thirty-seven (37), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

38. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph thirty-eight (38) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph thirty-eight (38), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

39. Respondents admit that Halo has entered into an ICA with AT&T Missouri. Respondents deny the remaining allegations in paragraph thirty-nine (39). Respondents specifically deny that the AT&T Agreement grants Halo any rights to use Respondents' networks. The Respondents specifically deny that Halo's agreement "facilitates the exchange of traffic with AT&T Missouri and all other carriers that are also interconnected with AT&T Missouri."

40. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph forty (40) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph forty (40), these averments are legal assertions and conclusions and, as

such, no admission or denial is required. Respondents further state that the Federal Communications Commission (FCC) has expressly rejected Halo's scheme.

41. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph forty-one (41) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph forty-one (41), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

42. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph forty-two (42) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph forty-two (42), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

43. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph forty-three (43) and therefore deny the same. Respondents specifically deny that "not one minute of the relevant traffic is subject to access charges." Respondents also specifically deny that all of the traffic being delivered by Halo "originates" in the same Metropolitan Trading Area (MTA). With respect to Halo's legal arguments in numbered paragraph forty-three (43), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

44. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph forty-four (44) and therefore deny the same. Respondents specifically deny that the AT&T/Halo ICA

grants Halo any rights to use Respondents' networks or to unlawfully secure "indirect interconnection." With respect to Halo's legal arguments in numbered paragraph forty-four (44), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

45. Halo's legal arguments in numbered paragraph forty-five (45), are legal assertions and conclusions and, as such, no admission or denial is required.

46. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph forty-six (46) and therefore deny the same. Respondents specifically deny that Halo's activities and access rate avoidance scheme are "in the public interest." With respect to Halo's legal arguments in numbered paragraph forty-six (46), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

47. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph forty-seven (47) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph forty-seven (47), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

C. Dispute with Respondents

48. With respect to the allegations regarding the Johnson Respondents, Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph forty-eight (48) and therefore deny the same. With respect to Halo's legal arguments regarding Respondents' attempts to

negotiate with Halo in numbered paragraph forty-eight (48), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

49. Respondents admit that they billed Halo for Halo's post-bankruptcy traffic. Respondents admit that they initiated proceedings with the Commission in File No. TC-2011-0404. Respondents deny that they initiated File Nos. IC-2011-0385 and TO-2012-0035. Respondents did intervene in File No. TC-2012-0035 in support of the Complainants in that case. Respondents' pleadings in File No. TC-2011-0404 speak for themselves. With respect to Halo's legal arguments in numbered paragraph forty-nine (49), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

50. Respondents are generally aware that numerous small rural LECs in other states have initiated proceedings before state public utility commissions. Respondents are also aware that some Missouri LECs have already blocked Halo's traffic pursuant to the ERE Rule. Respondents are also aware that the AT&T companies, including AT&T Missouri, have intervened or filed separate complaints related to AT&T's ICAs with Halo. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the other allegations in paragraph fifty (50) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph fifty (50), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

51. Respondents are aware that Halo filed for Chapter 11 bankruptcy protection in the Eastern District of Texas on August 8, 2011. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the

allegations in paragraph fifty-one (51) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph fifty-one (51), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

52. Respondents are aware of the Bankruptcy Court's Stay Orders and those Orders speak for themselves. With respect to Halo's legal arguments in numbered paragraph fifty-two (52), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

53. Respondents are aware of the Bankruptcy Court's Stay Orders and those Orders speak for themselves. With respect to the allegations regarding the Johnson Respondents, Respondents are generally aware that Mr. Johnson's clients requested blocking of Halo's traffic on or about February 22, 2012. Respondents admit that they issued blocking notices to Halo pursuant to the Commission's ERE Rule in March of 2012 due to Halo's: (a) failure to pay invoices for post-bankruptcy traffic delivered by Halo; (b) continued post-bankruptcy transmission of interLATA wireline telecommunications traffic in violation of the ERE Rule; and/or (c) failure to provide, or altering, originating caller identification information for post-bankruptcy traffic. Copies of those notices are included as Attachments 1-10. With respect to Halo's legal arguments in numbered paragraph fifty-three (53), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

54. Respondents admit that AT&T Missouri sent notices to Halo pursuant to the ERE Rule to commence blocking Halo's traffic to Respondents. Exhibits A through C speak for themselves. With respect to the remaining allegations, Respondents state

that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph fifty-four (54) and therefore deny the same.

55. Exhibit D speaks for itself. Respondents are generally aware that AT&T Missouri sent its own blocking notice to Halo.

IV. CLAIMS

A. Respondents' Blocking and the Bankruptcy Court's Orders

56. Respondents admit that Halo filed a voluntary petition for Chapter 11 bankruptcy in The United States Bankruptcy Court for the Eastern District of Texas.

57. With respect to the language of the Bankruptcy Code, that statutory language speaks for itself and no response is required. With respect to Halo's legal arguments in numbered paragraph fifty-seven (57), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

58. With respect to Halo's legal arguments in numbered paragraph fifty-eight (58), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

59. Respondents deny the allegations in numbered paragraph fifty-nine (59). Respondents specifically deny that their blocking notices for Halo's post-bankruptcy traffic constitute "continuing collection activities and attempts to exercise control over property of Halo's estate that are barred by the automatic stay." Rather, Respondents' blocking notices are clearly based upon post-bankruptcy non-payment of billings and violations of the ERE Rule. With respect to Halo's legal arguments in numbered paragraph fifty-nine (59), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

60. Respondents deny that the blocking notices violate the Bankruptcy Court's stay order. With respect to Halo's arguments in numbered paragraph sixty (60), these averments are legal assertions and conclusions and, as such, no admission or denial is required. Moreover, Halo's arguments have been denied by the Commission.

61. Respondents agree that this matter should be expedited. With respect to Halo's legal arguments in numbered paragraph sixty-one (61), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

62. Respondents admit that Halo sent the letter attached to its First Amended Complaint as Exhibit G. Respondents specifically deny that Halo's letter was a good faith effort to resolve the dispute or comply with the ERE Rule. Respondents specifically deny that any response to Halo's letter was necessary as Respondents' blocking notices clearly identified sufficient reasons for blocking. With respect to the allegations regarding AT&T Missouri's Response or the Johnson Respondents' response, Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph sixty-two (62) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph sixty-two (62), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

63. Respondents admit that Halo filed its complaint in this matter on or about April 2, 2012 and an amended complaint on or about April 10, 2012. Respondents admit that a request for expedited treatment was included within Halo's complaint. Respondents deny that Halo's complaint and amended complaint comply with the Commission's rules or Missouri law.

64. Respondents deny the allegations in numbered paragraph sixty-four (64). Respondents specifically deny that Halo's March 15, 2012 letter and self-imposed March 30, 2012 deadline shows that Respondents were unwilling to enter into negotiations. Respondents further state that all of the reasons for blocking were specifically set forth in their blocking letters,¹ and therefore no "negotiation" is necessary under or required by the ERE Rule. With respect to Halo's legal arguments in numbered paragraph sixty-four (64), these averments are legal assertions and conclusions and, as such, no admission or denial is required. Respondents deny all remaining allegations.

65. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of whether Halo has any actual CMRS customers in the state of Missouri or elsewhere and therefore deny same. Respondents deny the remaining allegations in paragraph sixty-five (65). Respondents specifically deny that the blocking of Halo's traffic would present any risk to the convenience, rights, and safety of Halo's customers or to the general public, or that the blocking of Halo's traffic would result in any calls not completing. As is evident from Halo's Complaint, it appears that Halo's only paying "customer" is actually Halo's affiliate Transcom, a large aggregator of interexchange carrier (IXC) traffic that acts as a "least cost routing" vendor to other carriers. Essentially, Halo hands off the interexchange traffic of its affiliate Transcom's customers that would otherwise be subject to Respondents' Commission-approved rates for access services and reciprocal compensation. Halo was created to mask the true nature of these calls and thereby

¹ See Attachments 1-10.

avoid these charges in a scheme to deliver telecommunications traffic without paying the terminating carriers for the use of their rural networks. Respondents further state that the ERE Rule expressly allows Halo, Transcom, and Transcom's underlying customers to use alternative methods to deliver traffic to Respondents. See Rule 4 CSR 240-29.130(1). Respondents further state that the Commission has previously allowed Respondents to block the traffic of carriers that do not pay their bills. With respect to Halo's legal arguments in numbered paragraph sixty-five (65), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

B. AT&T's Blocking Notices

66. With respect to Halo's legal arguments in numbered paragraph sixty-six (66), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

67. The language in the Commission's ERE Rules speaks for itself. With respect to Halo's legal arguments in numbered paragraph sixty-seven (67), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

68. The language in the Commission's ERE Rules speaks for itself. With respect to Halo's legal arguments in numbered paragraph sixty-eight (68), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

69. The language in the Commission's ERE Rules speaks for itself. With respect to Halo's legal arguments in numbered paragraph sixty-nine (69), these

averments are legal assertions and conclusions and, as such, no admission or denial is required.

70. With respect to the allegations that AT&T Missouri and Halo fully negotiated the ICA, Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph seventy (70) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph seventy (70), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

C. The PSC's ERE Blocking Rules Are Applicable to Halo.

71. The language in the Commission's ERE Rules speaks for itself. With respect to Halo's legal arguments in numbered paragraph seventy-one (71), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

72. The language in the Commission's ERE Rules speaks for itself. Halo's arguments in numbered paragraph seventy-two (72) are legal assertions and conclusions and, as such, no admission or denial is required.

73. The language in the Commission's ERE Rules and Order of Rulemaking speaks for itself. Halo's arguments in numbered paragraph seventy-three (73) are legal assertions and conclusions and, as such, no admission or denial is required.

74. The language in the Commission's ERE Rules and the Missouri Statutes speaks for itself. With respect to Halo's legal arguments in numbered paragraph seventy-four (74), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

75. The language in the Commission's ERE Rules and the Missouri Statutes speaks for itself. With respect to Halo's legal arguments in numbered paragraph seventy-five (75), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

76. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph seventy-six (76) and therefore deny the same. Halo's arguments in numbered paragraph seventy-six (76) are legal assertions and conclusions and, as such, no admission or denial is required.

77. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph seventy-seven (77) and therefore deny the same. Halo's arguments in numbered paragraph seventy-seven (77) are legal assertions and conclusions and, as such, no admission or denial is required.

78. Respondents deny that Transcom is an Enhanced Service Provider (ESP). Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph seventy-eight (78) and therefore deny the same. Halo's arguments in numbered paragraph seventy-eight (78) are legal assertions and conclusions and, as such, no admission or denial is required.

79. Respondents admit that they contend traffic received from Halo includes interMTA wireline traffic that is subject to access charges. Respondents admit that the FCC's order addressed this issue and specifically rejected the arguments Halo has

made and continues to make before this Commission. Specifically, the FCC stated 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.”² Halo’s remaining arguments in numbered paragraph seventy-nine (79) are legal assertions and conclusions and, as such, no admission or denial is required.

80. Halo’s arguments in numbered paragraph eighty (80) are legal assertions and conclusions and, as such, no admission or denial is required.

81. Halo’s arguments in numbered paragraph eighty-one (81) are legal assertions and conclusions and, as such, no admission or denial is required.

82. Halo’s arguments in numbered paragraph eighty-two (82) are legal assertions and conclusions and, as such, no admission or denial is required.

D. The Commission Is Authorized by Law to Enforce the ERE Rule.

83. Halo’s arguments in numbered paragraph eighty-three (83) are legal assertions and conclusions and, as such, no admission or denial is required.

84. Respondents admit that the language in the FCC’s *Order* specifically acknowledges that Missouri’s rules “currently allow for blocking of intrastate traffic in certain circumstances.”³ Respondents further state that the FCC’s *Order* does not preempt, strike down, or otherwise supersede the Missouri Commission’s ERE Rule. Respondents specifically deny that the call blocking procedures in the Commission’s

² *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al., *In the Matter of Connect America Fund*, released Nov. 18, 2012, ¶1006.

³ *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al., *In the Matter of Connect America Fund*, released Nov. 18, 2012, ¶734, footnote 1277.

ERE Rule are unjust or unreasonable. On the contrary, the ERE Rule provides a clear procedure for terminating carriers to block unlawful traffic where terminating carriers are otherwise unable to disconnect the unlawful traffic themselves. Respondents deny all other allegations in paragraph 84. Halo's remaining arguments in numbered paragraph eighty-four (84) are legal assertions and conclusions and, as such, no admission or denial is required.

85. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph eighty-five (85) and therefore deny the same. Halo's arguments in numbered paragraph eighty-five (85) are legal assertions and conclusions and, as such, no admission or denial is required.

86. Halo's arguments in numbered paragraph eighty-six (86) are legal assertions and conclusions and, as such, no admission or denial is required.

87. Halo's arguments in numbered paragraph eighty-seven (87) are legal assertions and conclusions and, as such, no admission or denial is required.

88. Halo's arguments in numbered paragraph eighty-eight (88) are legal assertions and conclusions and, as such, no admission or denial is required.

89. Halo's remaining arguments in numbered paragraph eighty-nine (89) are legal assertions and conclusions and, as such, no admission or denial is required.

E. Blocking on the LEC-to-LEC Network Continues to Be Allowed.

90. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph ninety (90) and therefore deny the same. Halo's arguments in numbered paragraph ninety (90) are legal assertions and conclusions and, as such, no admission or denial is required.

F. Blocking Is Consistent with Federal Inter-carrier Compensation Structures.

91. Halo's arguments in numbered paragraph ninety-one (91) are legal assertions and conclusions and, as such, no admission or denial is required.

92. Halo's arguments in numbered paragraph ninety-two (92) are legal assertions and conclusions and, as such, no admission or denial is required.

93. Respondents deny the allegations in paragraph ninety-three (93). Halo's arguments in numbered paragraph ninety-three (93) are legal assertions and conclusions and, as such, no admission or denial is required.

G. Blocking Is Allowed Because the Commission Has Jurisdiction over Rural Missouri Networks.

94. Respondents admit that they assert much of Halo's traffic is not "CMRS" or "wireless" originated, but rather, it is wireline interexchange traffic. Halo's remaining arguments in numbered paragraph ninety-four (94) are legal assertions and conclusions and, as such, no admission or denial is required.

95. Halo's arguments in numbered paragraph ninety-five (95) are legal assertions and conclusions and, as such, no admission or denial is required.

96. Halo's arguments in numbered paragraph ninety-six (96) are legal assertions and conclusions and, as such, no admission or denial is required.

97. Halo's arguments in numbered paragraph ninety-seven (97) are legal assertions and conclusions and, as such, no admission or denial is required.

98. Halo's arguments in numbered paragraph ninety-eight (98) are legal assertions and conclusions and, as such, no admission or denial is required.

99. Halo's arguments in numbered paragraph ninety-nine (99) are legal assertions and conclusions and, as such, no admission or denial is required.

100. Halo's arguments in numbered paragraph one-hundred (100) are legal assertions and conclusions and, as such, no admission or denial is required.

H. Blocking Should Be Authorized by the Commission.

101. Respondents deny the allegations in paragraph one-hundred-and-one (101) and therefore deny the same. Respondents specifically deny that Transcom is an "end user" or an ESP. Respondents specifically deny that Halo may use Respondents' rural Missouri telecommunications networks without any compensation and in violation of the ERE Rule. Halo's arguments in numbered paragraph one-hundred-and-one (101) are legal assertions and conclusions and, as such, no admission or denial is required.

102. Respondents admit that Halo's non-payment for post-bankruptcy traffic is one of the reasons identified on their blocking notices. See Attachments 1-10. Halo's arguments in numbered paragraph one-hundred-and-two (102) are legal assertions and conclusions and, as such, no admission or denial is required.

103. Respondents deny that they are not entitled any compensation for Halo's use of their rural Missouri networks. Halo's remaining arguments in numbered paragraph one-hundred-and-three (103) are legal assertions and conclusions and, as such, no admission or denial is required.

104. The language of the Commission's ERE Rule speaks for itself. Halo's arguments in numbered paragraph one-hundred-and-four (104) are legal assertions and conclusions and, as such, no admission or denial is required.

105. Respondents deny that they are not entitled any compensation for Halo's use of their rural Missouri networks. Halo's remaining arguments in numbered paragraph one-hundred-and-five (105) are legal assertions and conclusions and, as such, no admission or denial is required.

106. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph one-hundred-and-six (106) and therefore deny the same. The language of the Commission's ERE Rule speaks for itself. Halo's arguments in numbered paragraph one-hundred-and-six (106) are legal assertions and conclusions and, as such, no admission or denial is required.

107. The language of the Commission's ERE Rule speaks for itself. Halo's arguments in numbered paragraph one-hundred-and-seven (107) are legal assertions and conclusions and, as such, no admission or denial is required.

108. The language of the AT&T ICA with Halo speaks for itself. With respect to Halo's arguments in numbered paragraph one-hundred-and-eight (108), those are legal assertions and conclusions and, as such, no admission or denial is required.

109. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph one-hundred-and-nine (109) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph one-hundred-and-nine (109), those are legal assertions and conclusions and, as such, no admission or denial is required. Respondents specifically deny that Halo's traffic "originates" as intraMTA traffic and further state that the FCC's November 18, 2011 *Order* specifically rejects Halo's position.

110. Halo's arguments in numbered paragraph one-hundred-and-ten (110) are legal assertions and conclusions and, as such, no admission or denial is required.

111. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph one-hundred-and-eleven (111) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph one-hundred-and-eleven (111), those are legal assertions and conclusions and, as such, no admission or denial is required.

112. Halo's arguments in numbered paragraph one-hundred-and-twelve (112), are legal assertions and conclusions and, as such, no admission or denial is required.

113. Respondents admit that they have cited the FCC's *Report and Order and Further Notice of Proposed Rulemaking*⁴ in other litigation involving Halo. Respondents deny the remaining allegations in paragraph one-hundred-and-thirteen (113). With respect to Halo's legal arguments in numbered paragraph one-hundred-and-thirteen (113), those are legal assertions and conclusions and, as such, no admission or denial is required.

114. Respondents deny that Transcom is an "end user" or an ESP. Halo's arguments in numbered paragraph one-hundred-and-fourteen (114) are legal assertions and conclusions and, as such, no admission or denial is required.

115. Respondents deny that Transcom is an "end user" or an ESP. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph one-hundred-and-fifteen (115) and therefore deny the same. Halo's arguments in numbered paragraph one-

⁴ *Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al., *In the Matter of Connect America Fund*, released Nov. 18, 2012.

hundred-and-fifteen (115) are legal assertions and conclusions and, as such, no admission or denial is required.

116. Respondents deny that Transcom is an “end user” or ESP. Halo’s arguments in numbered paragraph one-hundred-and-sixteen (116) are legal assertions and conclusions and, as such, no admission or denial is required.

117. Halo’s arguments in numbered paragraph one-hundred-and-seventeen (117) are legal assertions and conclusions and, as such, no admission or denial is required. Respondents further state that foreign, unpublished, and vacated district court opinions on a different subject matter are entitled to no authority before the Missouri PSC. Complainant cannot rely on these unpublished and vacated decisions to defend its unlawful access avoidance scheme.

118. Respondents deny the allegations in paragraph one-hundred-and-eighteen (118). Respondents specifically deny that Transcom is an “end user” or ESP. Halo’s arguments in numbered paragraph one-hundred-and-eighteen (118) are legal assertions and conclusions and, as such, no admission or denial is required.

119. Respondents admit asserting that Halo did not provide correct originating caller identification information. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph one-hundred-and-nineteen (119) and therefore deny the same. With respect to Halo’s legal arguments in numbered paragraph one-hundred-and-nineteen (119), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

120. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph one-hundred-

and-twenty (120) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph one-hundred-and-twenty (120), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

121. Respondents state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph one-hundred-and-twenty-one (121) and therefore deny the same. With respect to Halo's legal arguments in numbered paragraph one-hundred-and-twenty-one (121), these averments are legal assertions and conclusions and, as such, no admission or denial is required.

122. Halo's arguments in numbered paragraph one-hundred-and-twenty-two (122) are legal assertions and conclusions and, as such, no admission or denial is required.

123. Halo's arguments in numbered paragraph one-hundred-and-twenty-three (123) are legal assertions and conclusions and, as such, no admission or denial is required.

FURTHER ANSWERS AND AFFIRMATIVE DEFENSES

A. **Failure to State A Claim.** The Complaint fails to set forth facts showing that Complainant is entitled to relief prayed for or any relief whatsoever, and fails to state a claim upon which relief can be granted.

B. **State and Federal Law Allow Telecommunications Carriers to Block/Disconnect Service for Failure to Pay for Service.** The right to block calls or disconnect service for failure to comply with Commission-approved tariffs has been consistently upheld by the Missouri Court of Appeals. *State ex rel. Tel-Central of*

Jefferson City, Inc. v. Public Service Comm’n, 806 S.W.3d 432 (Mo. App. 1991). The same is true for federal law. *Tel-Central of Jefferson City, Missouri v. United Telephone Co. of Missouri*;⁵ *Tel-Central of Jefferson City, Missouri, Inc. v. FCC*, 920 F.2d 1039 (D.C. Cir. 1990); *Business WATS, Inc. v. AT&T*;⁶ *MCI Telecom. Corp. v. AT&T*.⁷

C. **Filed Tariff Doctrine**. Halo has violated Respondents’ Commission-approved intrastate access rate tariffs by sending intra-state, interexchange landline telecommunications traffic to Respondents without regard to the rates, terms, and conditions in those same tariffs. Respondents’ tariffs have the force and effect of Missouri law. The “Filed Tariff Doctrine”⁸ or “Filed Rate Doctrine” governs a utility’s relationship with its customers:

The United States Supreme Court first announced this rule, that the rate of a utility contained in tariffs filed with the appropriate agency is the only lawful charge from which no deviation is permitted, in 1915. The utility has no choice and can only collect the proper, tariffed rate for the service

⁵ *In the Matter of Tel-Central of Jefferson City, Missouri, Inc. v. United Telephone Company of Missouri*, File No. E-87-59, *Memorandum Opinion and Order*, 4 FCC Rcd 8338, rel. Nov. 29, 1989.

⁶ *In the Matter of Business WATS. v. AT&T*, File No. E-93-011, *Memorandum Opinion and Order*, 7 FCC Rcd 7942, rel. Dec. 7, 1992.

⁷ *In the Matter of MCI Telecommunications Corp. v. AT&T and Pacific Telephone*, Rel. No. FCC 76-2119, *Memorandum Opinion and Order*, 62 F.C.C. 2d 703, rel. July 30, 1976.

⁸ The filed tariff doctrine forbids a regulated entity from charging a rate other than the one on file with the appropriate regulatory authority. See *Qwest v. Scott*, 380 F.3d 367, 374-75 (8th Cir. 2004). A tariff that has been approved by the PSC “becomes Missouri law and has the same force and effect as a statute enacted by the legislature.” *Bauer v. Southwestern Bell*, 958 S.W.2d 568, 570 (Mo. App. 1997). “The filed tariff, or filed rate, doctrine governs a utility’s relationship with its customers and provides that any rate filed with the appropriate regulatory agency is sanctioned by the government and cannot be the subject of legal action.” *Id.*

rendered. “Pursuant to the filed rate doctrine, carriers have a right, as well as a duty, to recover the proper charges for services performed.”

BPS Telephone v. VoiceStream Wireless, Case No. TC-2002-1077, *Report and Order*, January 27, 2005 (citing *Louisville and Nashville R.R. v. Maxwell*, 237 U.S. 94, 97, 59 L.Ed. 853, 855, 35 S.Ct. 494, 495 (1915)). Halo has failed to pay Respondents the tariff rates for Halo’s post-bankruptcy traffic, and Halo owes significant amounts for this traffic. Halo’s violation of Respondents’ tariffs is ongoing. Halo’s unlawful, post-bankruptcy use of Respondents’ rural telecommunications networks violates Respondents’ intrastate access tariffs.

D. **The Commission’s ERE Rules.** Respondents’ blocking notices were authorized by and consistent with the ERE Rules. Halo raises various jurisdictional challenges to the Commission’s ERE Rules, but Halo’s arguments were addressed and rejected by the Commission in its *Order of Rulemaking*.

The ERE Rules “do not regulate wireless carriers, as the Joint Wireless Carriers and Sprint suppose. Rather, **what the rules would regulate is the use of the LEC-to-LEC network – not the wireless carriers.** . . . We reject Joint Wireless Carriers’ apparent contention that nonregulated carriers may use the Missouri LEC-to-LEC network without regard to service quality, billing standards, and in some instances, with **an apparent disregard for adequate compensation.**”⁹

Likewise, federal law authorizes the Commission “to impose, on a competitively neutral basis . . . requirements necessary to preserve and advance universal service, protect

⁹ *Order of Rulemaking*, 30 Mo. Reg. 1373, 1377, June 15, 2005 (emphasis added).

the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.” 47 U.S.C. §253(b).

E. **Additional Affirmative Defenses.** Respondents reserve the right to raise additional affirmative defenses which may become apparent through the course of this case.

CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, having fully answered, Respondents Craw-Kan Telephone Cooperative, Inc. et al. respectfully request that the Commission deny or dismiss all of Halo’s prayers for relief contained in Halo’s complaint and first amended complaint and issue an order: (1) finding and concluding that the ERE Rules do apply to Halo and Halo’s traffic; (2) approving and authorizing Respondents and AT&T Missouri to block Halo’s traffic under the ERE Rule; (3) awarding Respondents their costs herein expended; and (4) granting such other and further relief as the Commission deems just and proper under the circumstances.

Respectfully submitted,

By: **/s/ Brian T. McCartney**

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 3rd day of May, 2012, to the following parties:

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