

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

BPS Telephone Company, )  
Citizens Telephone Company of Higginsville, Mo., )  
Craw-Kan Telephone Cooperative, Inc., )  
Ellington Telephone Company, )  
Farber Telephone Company, )  
Fidelity Communication Services I, Inc., )  
Fidelity Communication Services II, Inc., )  
Fidelity Telephone Company, )  
Goodman Telephone Company, )  
Granby Telephone Company, )  
Grand River Mutual Telephone Corporation, )  
Green Hills Telephone Corporation, )  
Green Hills Telecommunications Services, )  
Holway Telephone Company, )  
Iamo Telephone Company, )  
Kingdom Telephone Company, )  
K.L.M. Telephone Company, )  
Lathrop Telephone Company, )  
Le-Ru Telephone Company, )  
Mark Twain Rural Telephone Company, )  
Mark Twain Communications Company, )  
McDonald County Telephone Company, )  
Miller Telephone Company, )  
New Florence Telephone Company, )  
New London Telephone Company, )  
Northeast Missouri Rural Telephone Company, )  
Orchard Farm Telephone Company, )  
Oregon Farmers Mutual Telephone Company, )  
Ozark Telephone Company, )  
Peace Valley Telephone Company, Inc., )  
Rock Port Telephone Company, )  
Seneca Telephone Company, )  
Steelville Telephone Exchange, Inc., and )  
Stoutland Telephone Company )

Complainants, )

v. )

Halo Wireless, Inc. )

Respondent. )

Case No. TC-2011-0404

### **Motion for Stay of August 26 Deadline**

1. On June 22, 2011, Complainants BPS Telephone Company et al. filed their Complaint in this matter against Halo Wireless, Inc. ("Halo").
2. On July 25, 2011, Halo filed a Motion to Dismiss for Lack of Jurisdiction.
3. On July 26, the Commission issued its Order directing the Complainants' response to the motion to be filed on or before August 26, 2011.
4. On August 10, 2011, Halo filed Suggestions in Bankruptcy stating that its pending bankruptcy in United States Bankruptcy Court of the Eastern District of Texas operated to automatically stay these proceedings.
5. On August 15, 2011, the Commission issued an Order Directing Filing requiring Staff and any other interested party to file a legal analysis of Halo's Suggestions of Bankruptcy no later than September 12, 2011. However, the Commission's order did not alter the August 26, 2011 deadline to respond to Halo's Motion to Dismiss for Lack of Jurisdiction.
6. Pursuant to 11 USC 362, the filing of a bankruptcy petition operates as an automatic stay of commencement *or continuation* of certain types of proceedings against the bankrupt. However, subsection (b) (4) provides that certain state police power or regulatory actions are not subject to this automatic stay.
7. At this time it appears there is reasoning as to why the stay does apply, reasoning as to why the stay does not apply, and reasoning that a preferred course may be to request the bankruptcy judge to determine if the stay

applies, and if determined it does, to request the judge to order the stay lifted so this Commission can continue with this action.

8. Complainants have no desire to violate the automatic stay, if it applies, by participating in the *continuation* of this proceeding by filing an August 26 response to Halo's subject matter jurisdiction motion, as the Commission's Order of July 26 directs Complainants to do.

9. Complainants intend to review the legal issues related to the automatic stay and file their analysis on or before September 12, 2011.

10. Accordingly, Complainants hereby request that the Commission issue an order indefinitely staying or suspending Complainants' deadline for the filing of a response to Halo Wireless' motion to dismiss, which is currently due August 26, 2011. The Commission should stay the requirement to respond until the parties have briefed the bankruptcy issues and the Commission has ruled on whether this matter can proceed.

11. Complainants request that the Commission issue such an order as soon as possible and no later than Monday, August 22, 2011.

WHEREFORE, Complainants respectfully request that the Commission issue its order granting an indefinite stay of Complainants' required response to Halo's motion to dismiss on or before August 22, 2011 and grant such other relief as is reasonable in the circumstances.

Respectfully submitted,

/s/ Trip England

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### **Certificate of Service**

I hereby certify that a true and correct copy of the above and foregoing document was electronically mailed, this 16th day of August, 2011 to:

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/s/ Trip England

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