understand why you would make this claim. Halo is a CMRS provider and our traffic is CMRS. The "wireless" rules apply. Your clients are not legally inhibited by LATA boundaries, and neither is Halo. LATA boundaries are wholly irrelevant except to the extent they may impose some practical issues when an RBOC's network is involved.

Missouri PSC Rules do not apply but FCC rules do. Another reason for the delay in my response was that the Missouri PSC rules you cited had to be reviewed in an attempt to understand how a state commission's rules might possibly apply in this context. They do not, as a matter of law, given the specific situation at hand. Your clients are in the Kansas City MTA. Halo has a single transmitter for this MTA, and it is located in Junction City, Kansas. Therefore, even though all of the communications are intraMTA they are *also* interstate. Consequently, the Missouri PSC does not have any jurisdiction over Halo or the communications in issue and its rules cannot apply. Under Missouri law CMRS service is excluded from the definition of "telecommunications service" and a CMRS carrier therefore cannot be a "telecommunications company." *See*, section 386.020(52) and (54)(c). The state commission's rules simply cannot apply in this context.

We are certain that your clients will not take precipitous action, particularly since we have now replied to your December 30 letter. I will not tarry long on the topic of call blocking.[2] This is all interstate traffic and no state rules can apply. FCC regulations will apply to the extent there is truly a desire to block calls. If your clients and any other carrier working in concert with them want for some reason to block all concerned must comply with § 214(a) and (b) along with applicable FCC rules. The call blocking you describe fits the definition of "discontinuance, reduction, or impairment of service" in 47 C.F.R. § 63.60(b)(5) and requires a formal application under 63.62(b). There are other applicable requirements as well but I will not list them here.

Your clients are currently being compensated through a "bill and keep" arrangement. I must address an unstated premise in your letter. Your clients seem to think there is not a compensation mechanism in place for transport and termination. This is not correct. The FCC has made clear that in the absence of an agreement the compensation method for traffic subject to § 251(b)(5) is bill and keep. Neither side pays the other for transport and termination. That default method stays in place unless and until there is a contract that provides for some other compensation scheme.

Your request for negotiations. It is apparent that your clients and you both in fact recognize the current default bill and keep compensation mechanism and fully understand that this default can only be changed through a contract that implements some other mechanism, because your letter asks that the parties negotiate to achieve a contract. But we do not know what your clients have in mind in terms of the various governing principles and procedures for obtaining a contract and your letter does not squarely fit how any of available vehicles work. The letter mentions "section 251" but there are multiple parts of § 251 that might apply and each has much different procedures and rules. Similarly, given that Halo is a CMRS provider there are also the independent substantive and procedural methods arising under § 332(c)(1)(B), which essentially applies § 201 and is enforced through § 208. Our problem is that your letter is wholly unclear as to which of the available mechanisms and processes you truly desire to use, and we believe your clients may misapprehend the substance and process that flows from each of them.

Halo is willing to discuss interconnection using § 251(a) as the vehicle. If your clients wish to supply a contract you have successfully negotiated using that approach we will review it and provide our thoughts. Section 251(a) is not implemented, however, through the negotiation and arbitration procedures in § 252. Nor is § 332(c)(1)(B). The FCC recognized the distinct

[2] Your letter mentions blocking as part of the allegations concerning "interLATA wireline" traffic. I have already explained there is no such traffic.

processes a few years ago in the *Order on Reconsideration, In the Matter of CoreComm Communications, Inc., and Z-Tel Communications, Inc. v. SBC Communications Inc., et al*, File No. EB-01-MD-017, FCC 04-106, ¶ 18 and note 44, 19 FCC Rcd 8447 (rel. May 2004):

> 18. Neither the general interconnection obligation of section 251(a) nor the interconnection obligation arising under section 332 is implemented through the negotiation and arbitration scheme of section 252.[note 44]
>
> [Note 44] Section 251(c) obligates incumbent LECs "to negotiate in good faith in accordance with section 252 the particular terms and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b) and this subsection [*i.e.*, subsection (c)]." 47 U.S.C. § 251(c)(1). It does not require such negotiation with respect to section 251(a). Similarly, section 252(a)(1), 47 U.S.C. § 252(a)(1), permits ILECs to negotiate agreements "without regard to the standards set forth in subsections (b) and (c) of section 251," but does not mention subsection 251(a). Section 332(c)(1)(B) requires interconnection when the Commission finds such action necessary or desirable in the public interest. *See* 47 U.S.C. § 332(c)(1)(B) (providing that, upon reasonable request of a CMRS provider, the Commission shall order interconnection pursuant to section 201.). There is, again, no mention of the section 251/252 negotiation process.

Your letter also mentions "reciprocal compensation" – which is governed by § 251(b)(5). That section applies only to LECs and Halo is not an LEC and thus Halo is not directly covered by that provision although we have the right to choose to invoke §§ 251 and 252, become a requesting carrier and then require an ILEC to comply with whatever §§ 251/252 duties the ILEC may have.[3] The FCC, however, has exercised its powers under § 332(c)(1)(B) (which in turn relies on and applies § 201) to require that CMRS providers and LECs "shall comply with principles of mutual compensation." LECs "shall pay reasonable compensation to a commercial mobile radio service provider in connection with terminating traffic that originates on facilities of the local exchange carrier" and CMRS providers "shall pay reasonable compensation to a local exchange carrier in connection with terminating traffic that originates on the facilities of the commercial mobile radio service provider." According to the FCC, LECs and CMRS providers "shall also comply with applicable provisions of part 51 of [47 C.F.R.]. *See* 47 C.F.R. § 20.11(b) and (c). This means that the FCC has exercised its § 332 powers to apply the same compensation principles for CMRS-LEC traffic that applies to LEC-LEC traffic under § 251(b)(5).[4] If your clients wish to negotiate terms in the context of § 332(c)(1)(B) of the Act (again, applying § 201) and follow these parts of the rule, then Halo will do so. Should the parties not reach a voluntary agreement, then any disputes will and must be resolved by the filing of a complaint at the FCC under § 208 of the Communications Act. *See* 47 C.F.R. § 20.11(a).

---

[3] *See Local Competition Order* ¶ 1008. Although your clients have § 251(b)(5) duties they are exempt from the § 251(c)(1) duty to negotiate in good faith to implement that duty on account of § 251(f). And for so long as your clients are exempt they cannot be subjected to a § 252 arbitration. One cannot fairly assert that an RLEC is immune from § 251(c) duties and from a § 252 arbitration because of the § 251(f) rural exemption but it can compel a competing carrier to state level arbitration under § 252 and still maintain the rural exemption.

[4] This result does not mean that CMRS providers directly have § 251(b)(5) obligations. The FCC requires <u>LECs</u> to enter § 251(b)(5) arrangements with a CMRS provider that invokes § 252 and becomes a "requesting carrier" under § 252. Section 251(b)(5) does not otherwise directly bind CMRS providers since they are not LECs. CMRS and LECs, however, have had "mutual compensation" obligations since at least 1994. In the *Local Competition Order* the FCC exercised its separate and independent § 332 powers to impose § 251(b)(5)-like duties on CMRS in § 20.11 by incorporating part 51 rules through 20.11(c). In 2005 as part of its *T-Mobile* decision the FCC again used its § 332 powers to require CMRS providers to use § 252 procedures and to submit to state arbitration upon proper request by an ILEC by promulgating the amendment to the rules codified in § 20.11(e).

The FCC a few years ago gave ILECs the additional option of invoking "the negotiation and arbitration procedures contained in section 252 of the Act." *See* 47 C.F.R. § 20.11(e). When an ILEC does what is required by the rule to exercise this option the CMRS provider "receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission." You could not have intended to use this procedure. The letter mentions only § 251, and does not invoke § 252 arbitration procedures. Nor does it request that Halo "submit to arbitration by the state commission." If I am incorrect in this regard, please send Halo a request that actually complies with the rule.

Should your clients choose this route[5] Halo would, of course, then follow the procedures in § 252 and the parties would have a 135 day window for negotiations. During those negotiations, our starting point would naturally be for full and complete implementation of §§ 251(b)(5), including the cost standards in § 252(d).[6] Halo will desire direct interconnection and will apply § 251(c)(2) as well as, again, § 252(d)(1). Halo's wireless network is 4G and we use Wi-Max, so we will be seeking IP-based interconnection rather than the more traditional circuit-switched interfaces and signaling. Transport and termination pricing will follow § 252(d)(2). We will also be interested in *inter alia*, resale (§ 251(c)(4)), collocation (§ 251(c)(6)), and structure access terms (§ 251(b)(4), invoking and applying § 224), and we will insist on faithful application of all the standards established in § 252 along with the FCC's implementing rules.

In order to reasonably assess any § 252 interconnection terms you may propose if you choose to proceed in that context we will request that your clients provide cost studies using TELRIC principles that support all of their proposed pricing for interconnection, traffic exchange, and collocation. We will seek studies reflecting your clients' claimed avoided cost for resale purposes. We will request the studies that will support your clients' proposed prices and terms for access to poles, conduits and rights of way. If your clients decide to operate in the context of a § 252 negotiation then 47 C.F.R. § 51.031 applies and Halo will request the costing information identified above and your clients must provide it under 51.301(c)(8)(i) and (ii).

Although Halo reserves all of its rights, including perhaps at some point taking recourse to § 252(i) or even becoming a requesting carrier, we are presently satisfied with the default bill and keep arrangement. Apparently, your clients are not. Halo will of course comply with federal law and therefore we will discuss § 251(a) interconnection terms, we will proceed under the FCC process[7] that applied prior to the amendment to 47 C.F.R. § 20.11 that gave ILECs the option of proceeding under § 252, or – if you choose to waive any § 251(f) exemptions and request use of § 252 procedures and file a compliant request that properly invokes it – we will follow § 20.11(e). But at this point we cannot discern which of the alternatives you prefer.

[5] Lest there be any confusion, Halo has not invoked § 252 and is not a "requesting carrier" at this time. Nor is Halo in any way making a *bona fide* request under § 251(f)(1)(B). Your clients are the ones attempting in some as-yet unknown fashion to change the *status quo* arrangements and mechanisms in place.

[6] By choosing to use § 252 processes your clients would necessarily be embracing § 251(c) since § 252 is entirely dedicated to implementation of § 251(b) and (c) and it cannot be used for solely § 251(a) interconnection related negotiations. Therefore any decision to take the option in 47 C.F.R. § 20.11(e) and invoke § 252 procedures would have to mean your clients are waiving any exemptions they may have under § 251(f).

[7] States have traditionally retained some jurisdiction to initially set CMRS-LEC compensation rates for intrastate traffic, as the FCC recently observed in *North County*. In our case, however, there is no intrastate traffic. It is all interstate. Thus the only option would be a complaint under § 208 and then the FCC would directly apply its § 201/332 jurisdiction.

I look forward to your response that more clearly states precisely what it is your clients seek. Please let me know if you have any questions.

Thank you.

Sincerely,

John Marks
General Counsel
jmarks@halowireless.com

**EXHIBIT 6**
**1/26/2011 LETTER FROM W.R. ENGLAND, III**

LAW OFFICES
BRYDON, SWEARENGEN & ENGLAND
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BRIAN T. MCCARTNEY
DIANA C. CARTER
SCOTT A. HAMBLIN
JAMIE J. COX
L. RUSSELL MITTEN
ERIN L. WISEMAN
JOHN D. BORGMEYER

COUNSEL
GREGORY C. MITCHELL

January 26, 2011

**VIA EMAIL & FEDERAL EXPRESS**

JAN 28 2011

Mr. John Marks
General Counsel
Halo Wireless
3437 W. 7th Street, Suite 127
Forth Worth, TX 76107

Re: Request for Interconnection & Compensation Arrangements

Dear Mr. Marks:

Our firm represents the following Local Exchange Companies (LECs) in the state of Missouri.

Goodman Telephone Company
Granby Telephone Company
Grand River Mutual Telephone Corporation
Lathrop Telephone Company
McDonald County Telephone Company
Oregon Farmers Mutual Telephone Company
Ozark Telephone Company
Seneca Telephone Company

These LECs have recently received billing records from their tandem provider, AT&T Missouri, indicating that Halo Wireless (Halo) is sending traffic through the AT&T tandems in Missouri, over the LEC-to-LEC (or Feature Group C) network for ultimate termination to customers served by these LECs. Currently, Halo has no agreement with any of these LECs to terminate this traffic.

Accordingly, these LECs request that Halo Wireless begin negotiations, pursuant to Section 251 of the Telecommunications Act, to establish appropriate interconnection arrangements (including reciprocal compensation) for the intraMTA wireless traffic that Halo Wireless is terminating to them.

Please acknowledge receipt of this letter and indicate Halo's willingness to begin negotiations towards an interconnection agreement for the exchange of, and compensation for, intraMTA wireless traffic. I look forward to hearing from you.

Sincerely,

W.R. England, III

WRE/da

**EXHIBIT 7**
**1/27/2011 LETTER FROM W.R. ENGLAND, III**

LAW OFFICES

BRYDON, SWEARENGEN & ENGLAND

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JAMIE J. COX
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ERIN L. WISEMAN
JOHN D. BORGMEYER

COUNSEL
GREGORY C. MITCHELL

January 27, 2011

JAN 28 2011

**VIA EMAIL & FEDERAL EXPRESS**

Mr. John Marks
General Counsel
Halo Wireless
3437 W. 7th Street, Suite 127
Forth Worth, TX 76107

Re: Request for Interconnection & Compensation Arrangement

Dear Mr. Marks:

Our firm represents the following Local Exchange Company (LEC) in the state of Missouri.

Rock Port Telephone Company (Rock Port)

Rock Port has recently received billing records from its tandem provider, AT&T Missouri, indicating that Halo Wireless (Halo) is sending traffic through the AT&T tandems in Missouri, over the LEC-to-LEC (or Feature Group C) network for ultimate termination to customers served by Rock Port. Currently, Halo has no agreement with Rock Port to terminate this traffic.

Accordingly, Rock Port requests that Halo Wireless begin negotiations, pursuant to Section 251 of the Telecommunications Act, to establish appropriate interconnection arrangements (including reciprocal compensation) for the intraMTA wireless traffic that Halo Wireless is terminating to it.

Please acknowledge receipt of this letter and indicate Halo's willingness to begin negotiations towards an interconnection agreement for the exchange of, and compensation for, intraMTA wireless traffic. I look forward to hearing from you.

Sincerely,

W.R. ENGLAND III by BJM

W.R. England, III

WRE/da

**EXHIBIT 8**
**2/7/2011 LETTER FROM HALO WIRELESS**

wireless Halo
3437 W. 7th Street, Suite 127, Fort Worth, TX 76107

February 7, 2011

W.R. England III
Brydon, Swearengen & England
312 East Capitol Avenue
P.O. Box 456
Jefferson City, Missouri 65102-0456

Re: Request for Interconnection & Compensation Arrangements for: Goodman Telephone Company, Granby Telephone Company, Grand River Mutual Telephone Corporation, Lathrop Telephone Company, McDonald County Telephone Company, Oregon Farmers Mutual Telephone Company, Ozark Telephone Company, Seneca Telephone Company

Dear Mr. England:

This will acknowledge receipt of your letter of January 26, 2011 regarding the above requests. Your clients have requested that Halo "begin negotiations, pursuant to Section 251 of the Telecommunications Act to establish appropriate interconnection arrangements (including reciprocal compensation) for the intraMTA wireless traffic Halo is terminating[1] to them." As you know, and as has been previously pointed out to you, there are multiple parts of §251 that might apply and each has much different procedures and rules. Similarly, given that Halo is a CMRS provider there are also the independent substantive and procedural methods arising under §332(c) (1)(B), which essentially applies §201 for substantive interconnection responsibilities and is procedurally handled through §208. Our problem is that your letter is wholly unclear as to which of the available mechanisms and processes you truly desire to use.

Halo is willing to discuss interconnection using §251(a) as the vehicle. If your clients wish to supply a contract you have successfully negotiated using that approach we will review it and provide our thoughts. Section 251(a) is not implemented, however, through the negotiation and arbitration procedures in §252 if you were of a mind to use those procedures. Nor is §332(c)(1)(b). The FCC recognized the distinct processes a few years ago in the *Order on Reconsideration, In the Matter of CoreComm Communications, Inc., and Z-Tel Communications, Inc. v. SBC Communications Inc., et al,* File No. EB-01MD-017, FCC 04-106, ¶ 18 and note 44, 19 FCC 8447 (rel. May 2004), quoted to you in my letter regarding Citizens and Green Hills.

Your letter also mentions "reciprocal compensation" – which is governed by §251 (b)(5) and relates to §251(c) duties, with substantive requirements imposed by §252(d) and is part of the negotiation and arbitration processes described in §252 . Section 251(b)(5) applies only to LECs. Halo is not an LEC and thus Halo is not directly covered by that provision although we have the right to choose to invoke §§251 and 252, become a requesting carrier and then require an ILEC to comply with whatever §§251/252 duties the ILEC may have.[2] The FCC, however, has exercised its powers under §332(c)(1)(B)

[1] Halo is not "terminating" traffic to your clients. Halo is originating traffic that your clients transport and terminate.

[2] *See Local Competition Order* ¶1008. Although your clients have §251(b)(5) duties they are exempt from the §251(c)(1) duty to negotiate in good faith to implement that duty on account of §251(f). And for so long as your

(which in turn relies on and applies §201) to require that CMRS providers and LECs "shall comply with principles of mutual compensation." LECs "shall pay reasonable compensation to a commercial mobile radio service provider in connection with terminating traffic that originates on facilities of the local exchange carrier" and CMRS providers "shall pay reasonable compensation to a local exchange carrier in connection with terminating traffic that originates on the facilities of the commercial mobile radio service provider." According to the FCC, LECs and CMRS providers "shall also comply with applicable provisions of part 51 of [47 C.F.R.]. See 47 C.F.R. §20.11(b) and (c). This means that the FCC has exercised its §332 powers to apply the same compensation principles for CMRS-LEC traffic that applies to LEC-LEC traffic under §251(b)(5).[3] If your clients wish to negotiate terms in the context of §332(c)(1)(B) of the Act (again, applying §201) and follow these parts of the rule, then Halo will do so. Should the parties not reach a voluntary agreement, then any disputes will and must be resolved by the filing of a complaint at the FCC under §208 of the Communications Act. *See* §20.11(a).

The FCC a few years ago gave ILECs the additional option of invoking "the negotiation and arbitration procedures contained in Section 252 of the Act." *See* 47 C.F.R. §20.11(e). When an ILEC does what is required by the rule to exercise this option the CMRS provider "receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration the state commission." You could not have intended to use this procedure. The letter mentions only §251, and does not invoke §252 arbitration procedures. Nor does it request that Halo "submit to arbitration by the state commission." If I am incorrect in this regard, please send Halo a request that actually complies with the rule.

Should your clients choose this route[4] Halo would, of course, then follow the procedures in §252 and the parties would have a 135 day window for negotiations. During those negotiations, our starting point would naturally be for full and complete implementation of §§ 251(b)(5), including cost standards in §252(d).[5] Halo will direct interconnection and will apply §251(c)(2) as well as, again, §252(d)(1). Halo's wireless network is 4G and we use Wi-Max, so we will be seeking IP-based interconnection rather than the more traditional circuit-switched interfaces and signaling. Transport and termination pricing will follow §252(d)(2). We will also be interested in *inter alia*, resale (§251(c)(4)), collocation (§251(c)(6)), and structure access terms (§251(b)(4), invoking and applying §224, and we will insist on faithful application of all the standards established in §252 along with the FCC's implementing rules.

In order to reasonably assess any §252 interconnection terms you may propose if you choose to proceed in that context we will request that your clients provide cost studies using TELRIC principles that support all of their proposed pricing for interconnection, traffic exchange, and collocation. We will seek studies reflecting your clients' claimed avoided cost for resale purposes. We will request the studies

---

clients are exempt they cannot be subjected to a §252 arbitration. Nor in our opinion can they demand that a CMRS provider submit to the §252 process if and to the extent they intend to maintain their rural exemption. One cannot fairly assert that an RLEC is immune from §252 (c) duties and from a §252 arbitration because of the §251(f) rural exemption but it can compel a competing carrier to state level arbitration under §252 and still maintain the rural exemption.

[3] This result does not mean that CMRS providers directly have §251(b)(5) obligations. The FCC requires <u>LECs</u> to enter §251(b)(5) arrangements with a CMRS provider that invokes §252 and becomes a "requesting carrier" under §252. Section 251(b)(5) does not otherwise directly bind CMRS providers since they are not LECs. CMRS and LECs, however, have had "mutual compensation" obligations since at least 1994. In the *Local Competition Order* the FCC exercised its separate and independent §332 powers to impose §251(b)(5)-like duties on CMRS in §20.11 by incorporating part 51 rules through 20.11(c). In 2005 as part of its *T-Mobile* decision the FCC again used its §332 powers to require CMRS providers to use §252 procedures and to submit to state arbitration upon proper request by an ILEC by promulgating the amendment to the rules codified in §20,11(e).

[4] Lest there be any confusion, Halo has not invoked §252 and is not a "requesting carrier" at this time. Nor is Halo in any way making a *bona fide* request under §251 (f)(1)(B). Your clients are the ones attempting in some as-yet unknown fashion to change the *status quo* arrangements and mechanisms in place.

[5] By choosing to use §252 processes your clients would necessarily be embracing §252(b) and (c) and it cannot be used for solely §251(a) interconnection related negotiations. Therefore any decision to take the option in 47 C.F.R. §20.11(e) and invoke §252 procedures would have to mean your clients are waiving any exemptions they may have under §251(f).

that will support your clients' proposed prices and terms for access to poles, conduits and rights of way. If your clients decide to operate in the context of a §252 negotiation then 47 C.F.R. §51.031 applies and Halo will request the costing information identified above and your clients must provide it under 51.301(c)(8)(i) and (ii).

Although Halo reserves all of its rights, including perhaps at some point taking recourse to §252(i) or even becoming a requesting carrier, we are presently satisfied with the default bill and keep arrangement. Apparently, your clients are not. Halo will of course comply with federal law and therefore we will discuss §251(a) interconnection terms. We will proceed under the FCC process[6] that applied prior to the amendment to 47 C.F.R. §20.11 that gave ILECs the option of proceeding under §252, or – if you choose to waive any §251(f) exemptions and request use of §252 procedures and file a compliant request that properly invokes it – we will follow §20.1(e). But at this point we cannot discern which of the alternatives you prefer.

I look forward to hearing from you in behalf of each and all your clients in a way that states precisely what your clients seek.

Thank you.

Sincerely,

John Marks
General Counsel
jmarks@halowireless.com

[6] States have traditionally retained some jurisdiction to initially set CMRS-LEC compensation rates for intrastate traffic, as the FCC recently observed in *North County*. In our case, however, there is no intrastate traffic. It is all interstate since our sole wireless transmitter that serves the Kansas City MTA is located in Junction City, Kansas. Therefore, even though all of the communications between Halo and your clients are intraMTA they are also interstate. Thus the only option would be a complaint under §208 and then the FCC would apply its §201/332 jurisdiction.

**EXHIBIT 9**
**2/9/2011 LETTER FROM W.R. ENGLAND, III**

LAW OFFICES
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CHARLES E. SMARR
DEAN L. COOPER

BRIAN T. MCCARTNEY
DIANA C. CARTER
SCOTT A. HAMBLIN
JAMIE J. COX
L. RUSSELL MITTEN
ERIN L. WISEMAN
JOHN D. BORGMEYER

COUNSEL
GREGORY C. MITCHELL

February 9, 2011

**VIA EMAIL & FEDERAL EXPRESS**

Mr. John Marks
General Counsel
Halo Wireless
3437 W. 7th Street, Suite 127
Forth Worth, TX 76107

Re: Request for Interconnection & Compensation Arrangement

Dear Mr. Marks:

I have received and reviewed your correspondence dated January 24, 2011, but I am not sure you answered what I thought was a fairly simple and straight-forward question: "Will Halo begin good faith negotiations towards an interconnection agreement, to include reciprocal compensation arrangements, for the exchange of local traffic between it and Citizens Telephone Company ("Citizens"), Green Hills Telephone Company and Green Hills Telecommunications Services (collectively "Green Hills")?" Instead, you engage in a lengthy (and not necessarily correct) summary of the legal and regulatory issues relating to interconnection. Many of the issues you address, such as the nature of the traffic (wireline or wireless), the jurisdiction of the traffic (intraMTA or interMTA), the compensation for the traffic (Bill & Keep, TELRIC rates, etc.) and the nature and extent of interconnection (direct, indirect, collocation, resale, etc.) are more appropriately addressed in the context of interconnection negotiations, assuming Halo is willing to negotiate.

While I do not necessarily agree with many of the positions you advance in your correspondence (and I will address them in a separate response), for now, the threshold issue to be addressed is your apparent belief that my December 30, 2010, correspondence was insufficient to initiate the interconnection process as provided in Section 251 of the Telecommunications Act of 1996. It is abundantly clear from the FCC's 2005 T-Mobile decision that you reference in your letter, that local exchange companies, such as my clients, have the right to initiate negotiations and, if necessary, pursue arbitration to establish interconnection and reciprocal compensation arrangements with CMRS providers. While my correspondence did not explicitly mention Section 252 of the Telecommunications Act of 1996

("Act"), it was sufficiently clear to begin the negotiation process as envisioned by the FCC in its T-Mobile decision. It is my clients' hope that they and Halo can negotiate an agreement without the necessity of arbitration, as my clients have been able to do with many of the major wireless carriers. Nevertheless, let me make it clear that if they cannot negotiate an agreement with Halo, my clients are willing to engage in arbitration pursuant to Section 252 of the Act before the Missouri Public Service Commission.

In the meantime, all I need is for you to answer the following two questions (and it should not take twenty-five (25) days to do so):

1. Is Halo willing to negotiate (and, if necessary, arbitrate) an interconnection agreement pursuant to Sections 251 and 252 of the Telecommunications Act?

2. If so, what date is Halo willing to recognize as the "start date" for such negotiations?

I would appreciate a prompt reply to this correspondence because if Halo is willing to begin good faith negotiations toward an agreement, then my clients will withdraw their pending request to AT&T to begin blocking Halo's traffic on March 1, 2011.

Sincerely,

W.R. England, III

WRE/da

**EXHIBIT 10**
**2/11/2011 LETTER FROM AT&T MISSOURI**

at&t

Leo J. Bub
General Attorney

AT&T Missouri
One AT&T Center
Room 3518
St. Louis, Missouri 63101

T: 314.235.2508
F: 314.247.0014
leo.bub@att.com

**CERTIFIED U.S. MAIL NO. 7009 3410 0000 7781 2517**

February 11, 2011

Mr. Todd Wallace, CTO
Halo Wireless, Inc.
3437 W. 7th Street, Box 127
Fort Worth, Texas 76107

Re: Blocking Request from:
Citizens Telephone Company of Higginsville, Missouri,
Green Hills Telephone Corporation, and
Green Hills Telecommunications Services

Dear Mr. Wallace:

We are writing to notify you that we have received and are required to implement demands from Citizens Telephone Company of Higginsville, Missouri, Green Hills Telephone Corporation, and Green Hills Telecommunications Services, which are located in Missouri (the "Companies"), to block your company's traffic that transits AT&T Missouri's network and terminates to the Companies' exchanges.

The Companies have made this request pursuant to the Missouri Public Service Commission's Enhanced Record Exchange Rule which provides that:

> A terminating carrier may request the originating tandem carrier to block, and upon such request the originating tandem carrier shall block, the originating carrier's Local Exchange Carrier-to-Local Exchange Carrier (LEC-to-LEC) traffic, if the originating carrier has failed to fully compensate the terminating carrier for terminating compensable traffic, or if the originating carrier has failed to deliver the originating caller identification to the transiting and/or terminating carriers.

4 CSR 240-29.130(2). The rule further provides that following the notification required by the rule and on written request by a terminating carrier:

> . . . the originating tandem carrier will be required to block LEC-to-LEC traffic of an originating carrier and/or traffic aggregator to the terminating carrier. Such requests shall be based on the terminating carrier's representation that the originating carrier and/or traffic aggregator has failed to fully compensate the terminating carrier for terminating compensable traffic. . . .

4 CSR 240-29.110(5). The Commission's rules define "LEC-to-LEC" traffic as "that traffic occurring over the LEC-to-LEC network. LEC-to-LEC traffic does not traverse through an interexchange carrier's point of presence." 4 CSR 240-29.020(19). Similar denial of service provisions are contained in AT&T's interstate switched access service tariff, FCC No. 73, Section 2.1.3(c).

Thus, unless the Missouri Commission or other authority with competent jurisdiction issues an order staying the blocking of your company's traffic, we believe we are bound to follow the Companies' directives. We are beginning to perform the work necessary to implement this directive and will be in a position to commence the blocking on March 15, 2011.

Please call me with questions or if you need further information.

Very truly yours,

Leo J. Bub

cc: Mr. John Marks, Halo Wireless, Inc. (Via E-Mail and U.S. Mail)
Mr. William R. England, III (Via E-Mail)
Mr. John Van Eschen, Missouri Public Service Commission
Telecommunications Department Manager (Via E-Mail)

**EXHIBIT 11**
**2/14/2011 LETTER FROM HALO WIRELESS**

Halo wireless   **3437 W. 7th Street, Suite 127, Fort Worth, TX 76107**

February 14, 2011

W.R. England II
Brydon, Swearengen & England
312 East Capitol Ave
P.O. Box 456
Jefferson City, Missouri 65102-0456

RE: Your letter dated February 9, 2011

Dear Mr. England:

I received your letter dated February 9, 2011. This is our response.

Your letter reflects a misunderstanding of both § 252 of the federal Act and the FCC's rules. Section 252(a)(1) does not contemplate that an ILEC will or can be a requesting carrier. Nor does any other part of § 252 or even § 251. ILECs cannot initiate the § 252 process. For that reason Halo does not have any duty to begin negotiations if and to the extent your clients are relying solely on § 252. Similarly § 332(c)(1)(B) does not contemplate that an ILEC can request interconnection with a CMRS provider. For that reason Halo does not have any duty to begin negotiations if and to the extent your clients are relying on § 332(c)(1)(B).

Even though Halo has no duty if and to the extent your clients are relying on §§ 251, 252 or 332(c)(1)(b) we are willing to negotiate with them. But any such negotiations will ***not*** occur in the context of § 252, and those processes will not apply. Nor will either party have recourse to the state commission if no agreement can be reached through negotiations.

Your letter says that your clients are attempting to implement rights given to ILECs in the FCC's Declaratory Ruling and Report and Order, *In the Matter of Developing a Unified Intercarrier Compensation Regime, T-Mobile et al. Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs*, CC Docket 01-92, FCC 05-42, 20 FCC Rcd 4855 (2005). That FCC decision resulted in promulgation of an amendment to 47 C.F.R. § 20.11 by adding subsection (e), and that is the only source of any authority for an ILEC to demand negotiations with CMRS providers. If the ILEC properly implements § 20.11(e) then the ILEC can "invoke the negotiation and arbitration procedures contained in section 252 of the Act." If the ILEC properly invokes § 20.11(e) then the CMRS provider has the duty to negotiate in good faith. If the ILEC requests, the CMRS provider must "submit to arbitration by the state commission."

It appears, however, that you have not actually read that rule. For your convenience I set it out in full:

> (e) An incumbent local exchange carrier may request interconnection from a commercial mobile radio service provider and invoke the negotiation and arbitration procedures contained in section 252 of the Act. A commercial mobile radio service provider receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission.

Once a request for interconnection is made, the interim transport and termination pricing described in § 51.715 of this chapter shall apply.

The rule is straightforward. It has three parts and each part must be expressly invoked before there is any duty imposed on the CMRS provider. In order to properly invoke § 20.11(e) the ILEC must "request interconnection." You have now written us twice, and even after I advised you in my January 24, 2011 letter that you did not "request interconnection" you still failed to do so. You have not requested interconnection, and that is a prerequisite to proper invocation of § 20.11(e). Further, you must also "invoke the negotiation and arbitration procedures contained in section 252." Your first letter did not mention § 252; it referenced § 251. Your recent letter refers in one place to § 251, but finally does contain a citation to § 252. I will therefore acknowledge that you have now done one of the two things the rule requires an ILEC to do before the CMRS provider has the duty to negotiate. When and if your clients "request interconnection" you will have finally done what the rule requires to at least partially invoke § 20.11(e).

There is a separate and independent third part, however, which your letters also have not done even though my response to your mentioned it as well. Under the rule the ILEC must expressly request the CMRS provider to submit to state-level arbitration. When the request is made the CMRS provider must so submit. But submission is not an automatic thing. There must be a request, and to date your clients have not made that request.

I will summarize: when your clients "request interconnection" with Halo you will have finally done what the first sentence in 20.11(e) requires. When your client actually requests that Halo submit to state-level arbitration then we will. Your communications have not done either of these things. Therefore no clock is ticking and if you were to file an arbitration at the state commission without requesting that Halo submit then the state commission will not have jurisdiction.

If and when you comply with the rule's requirements, the clock will begin. Section 252(a)(1) allows the two carriers to "negotiate and enter into a binding agreement ... without regard to the standards set forth in subsections (b) and (c) of section 251." The provision is voluntary, however. Our present intent is to not voluntarily negotiate outside of subsections (b) *or* (c). Rather, we will insist on complete adherence to the standards for both, and nothing in this letter or my January 24, 2011 letter should be taken as any indication of a willingness to stray outside those boundaries. The only matters we will negotiate, and therefore the only "open issues" there might ever be for a state commission to arbitrate, will be implementation of <u>your clients'</u> duties under subsections (b) ***and*** (c).[1] An ILEC is "clearly free to refuse to negotiate any issues other than those it has a duty to negotiate under the Act," *See CoServ, LLC v. Southwestern Bell*, 350 F.3d 482, 488 (5th Cir., 2003). Certainly a non-LEC CMRS carrier is equally free to refuse to negotiate any issue other than implementation of the ILEC's subsection (b) and (c) duties and § 20.11(e) does not purport to require that the CMRS provider do more than the ILEC receiving a § 252 request must do.

Therefore, if your clients choose to fully invoke § 20.11(e) and finally do the things the rule says must be done, the resulting negotiations will not involve § 251(a), or any other matter. We will enter good faith negotiations to implement your clients' duties under § 251(b)(1) – (5). Since your clients will have "requested interconnection" and since your clients will have been the ones that invoked § 252 processes they will have necessarily waived any § 251(f) exemption. We will engage in good faith negotiations to implement your clients new-found § 251(c)(2)-(6) duties. Section 252 is exclusively devoted to those subsections, and does not even mention §

[1] Halo is not an LEC and does not have any duties under either of those subsections.

251(a), so that will not be a part of the negotiations. We will insist on strict adherence to the standards for § 251(b) and (c) set out in § 252(d) and then of course the FCC's Part 51 rules.

Further, as I indicated to you in my January 24, 2011 letter, Halo will seek direct interconnection and we will propose to use IP-based interconnection rather than the more traditional circuit-switched interfaces and signaling. I will not repeat the list of information requests we will have, but we will seek that information.

The "simple" answer to your "simple" question is yes. Halo will negotiate. I advised you that we were prepared to do so in my January 24 letter. But in case it was not sufficiently clear I will say it again. We will negotiate under § 251(a), but will not do so in the § 252 context. If your clients ever do what § 20.11(e) requires then the clock will start and we will comply with that rule. Then, however, we will be operating in the § 252 context and any negotiations (and therefore the open issues) will be purely limited to implementing your clients' duties under § 251(b) and (c), by applying the standards set out in § 252(d) and following the FCC's Part 51 rules.

The choice is yours.

Thank you.

Sincerely,

John Marks
General Counsel
jmarks@halowireless.com

**EXHIBIT 12**
**2/14/2011 LETTER FROM CRAIG S. JOHNSON**