

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

**Alma Communications Company d/b/a Alma
Telephone Company, Chariton Valley Tele-
Phone Corporation, Chariton Valley Telecom
Corporation, Choctaw Telephone Company,
Mid-Missouri Telephone Company, a corporate
division of Otelco, Inc., and MoKAN DIAL,
Inc.,**

Complainants,

vs.

)Case No.TO-2012-0035

**Halo Wireless, Inc., and
Southwestern Bell Telephone Company, dba
AT&T Missouri,**

Respondents.

and

**BPS Telephone Company, Citizens Telephone
Company of Higginsville, Mo., Craw-Kan
Telephone Cooperative, Inc., Ellington
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**

Complainants' Reply to Halo Wireless Inc.'s February 21 Response to Joint Motion for Order Directing Case Be Held in Abeyance

Come now Alma Communications Company et al., "Complainants", for their Reply to Halo Wireless Inc.'s February 21 Response to Joint Motion for Order Directing Case Be Held in Abeyance, and state as follows:

1. Halo Wireless is carrying landline originated telecommunications traffic. The FCC has so found. The Tennessee Regulatory Authority has so found. Studies AT&T has conducted on the traffic Halo has delivered to AT&T for transiting to Complainants confirms these findings.

2. In the Interconnection Agreement with AT&T Missouri, Halo represented it was interconnecting with AT&T in order to obtain termination of local CMRS traffic. That was false. Halo's national business plan is to take landline originated traffic, insert a small wireless transmission link between the landline origination point and landline termination points, and attempt to deprive terminating LECs of terminating access compensation.

3. The Commission need not be fooled by Halo's possession of FCC authority to utilize unlicensed spectrum. Assuming Halo holds a Radio Station Authorization does not mean Halo isn't delivering landline originated traffic. It is. The person driving a truck may not have a license authorizing him to drive a truck, but it is still a truck when it runs over you.

4. When Halo carries landline originated traffic and delivers it to AT&T for termination on the Missouri LEC-to-LEC network, Halo is engaging in

the provision of telecommunications services for hire. When Halo does so, it brings itself within the purview of the Enhanced Record Exchange Rule (ERE). The Telecommunications traffic is either interstate or intrastate in its jurisdiction. Halo carries both interstate and intrastate landline originated traffic. For the intrastate traffic Halo is providing telecommunications services without obtaining a certificate from this Commission.

5. For purposes of the ERE, when Halo placed this traffic on the LEC-to-LEC network at AT&T's originating tandem, it acted as an originating carrier, and became subject to the ERE. The ERE was intended to cover all traffic placed on the LEC-to-LEC network. No exception was intended for carriers who conceal the fact they did not originate the traffic placed on the LEC-to-LEC network.

6. Halo is subject to the ERE. Contrary to Halo's assertion, the Telecommunications Act does allow blocking of Halo traffic pursuant to the ERE. 47 USC 253 (b) provided that, although states were not permitted to prohibit any entity from providing interstate or intrastate telecommunications service, states were permitted to impose requirements necessary to preserve and advance universal service, public safety and welfare, and ensure the continued quality of telecommunications services. The ERE, including its provisions for blocking, is just such an imposition. Until and unless the FCC preempts the ERE, it is to be followed. 47 USC 253 (d).

Relief Requested

7. On the basis of the foregoing, Complainants again request that the Commission enter an Order doing the following:

- a. Holding this case in abeyance pending conclusion of blocking requests and proceedings;
- b. Directing Complainants to issue blocking requests to ATT Missouri within 30 days following said Order;
- c. Giving Halo 30 days from the receipt of any blocking request in which to file a complaint pursuant to and in compliance with 4 CSR 240-29.130 (9);
- d. Providing that, in the event no such complaint is filed as set forth in (c.) above, AT&T is authorized to institute blocking pursuant to 4 CSR 240-29.

Respectfully submitted,

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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 22nd day of February, 2012 to:

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