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

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

Complainants,

vs.

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

Respondents.

Case No. _____

**APPLICATION FOR REJECTION
OF PORTIONS OF AN INTERCONNECTION AGREEMENT**

Summary

The Telecommunications Act of 1996 authorized the Missouri Public Service Commission (Commission) to reject all or any portion of an interconnection agreement that discriminates against a telecommunications carrier that is not a party to the agreement, or if the implementation of that agreement or portion is not consistent with the public interest, convenience, or necessity.

The interconnection agreement (ICA) between Halo Wireless Inc. and Southwestern Bell Telephone Company (now known as AT&T Missouri or simply, AT&T) contains provisions (hereinafter referred to as the "Transiting Provision") whereby Halo is permitted to send traffic through its interconnection with AT&T for termination to Applicants (hereinafter "MoRLECs"). The Halo/AT&T ICA also obligates Halo to obtain agreements with the MoRLECs to address

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traffic Halo transits to them. Halo has failed to comply with this obligation, and is transiting traffic through AT&T to MoRLECs without an agreement with them.

The Transiting Provision of the Halo/AT&T ICA has discriminated against MoRLECs by placing them in an inferior position compared to AT&T for the following reasons:

1. AT&T Missouri was afforded the opportunity to establish the terms of an interconnection agreement with Halo prior to the receipt of Halo traffic. Due to the transiting provision of the ICA allowing Halo to send traffic to the MoRLECs, with whom no agreement was established, MoRLECs have been deprived of the opportunity to establish the rates, terms and conditions for interconnection and the delivery of this traffic prior to its receipt from Halo.
2. AT&T Missouri was able to secure its ICA with Halo by the relatively minor effort of adopting an existing interconnection agreement. In contrast, MoRLECs have been required to expend substantial time, effort and expense in attempting to get Halo to fulfill its obligations under its ICA with AT&T and Sections 251 and 252 of the Act, to no avail.
3. The Halo/AT&T ICA provides that Halo will pay AT&T access compensation for interexchange or "non-local" traffic, reciprocal compensation for local traffic, and even transit compensation for traffic destined to terminate with the MoRLECs. The absence of an agreement with Halo has resulted in the MoRLECs receiving absolutely no compensation (i.e., exchange access or reciprocal compensation), for any traffic. Instead the MoRLECs have been deprived of any compensation for calls that, prior to Halo's a Halo activities, were the subject of tariffed exchange access compensation.
4. The Halo/AT&T Missouri ICA contains an approved dispute resolution process. MoRLECs have no agreed dispute resolution process with Halo. As a result, MoRLECs have been forced to engage in traffic blocking, filing complaints, and defending themselves before the FCC and before the United States District Court.

The Transiting Provision in the Halo/AT&T Missouri ICA has also discriminated against other CMRS providers and interexchange carriers (IXCs) by placing Halo in a superior position

vis-a-vis these other CMRS providers or IXC's for the following reasons:

1. Halo has not expended the time, effort, and expense to obtain agreements with the MoRLECs for traffic Halo is sending them over AT&T's transit facilities, as other CMRS providers have been required to do.
2. Halo is paying no compensation to MoRLECs, either access compensation for exchange access traffic or reciprocal compensation for local traffic. The other CMRS providers, in their agreements with the MoRLECs have established factors for proportioning the quantity and jurisdiction of exchange access and local traffic, and are paying the approved compensation amounts to the MoRLECs.
3. To the extent Halo is transiting interexchange traffic to MoRLECs, Halo has avoided complying with the rates, terms and conditions of MoRLECs' access tariffs. Specifically, Halo has not made a request for access service, interconnected at MoRLECs's access tandem and, most importantly, paid tariffed access charges as have all other IXC's.

The manner in which Halo has implemented the Transiting Provision of the Halo/AT&T Missouri ICA is not consistent with the public interest, convenience and necessity in the following respects:

1. By refusing to negotiate (and, if necessary, arbitrate) terms of an interconnection agreement with MoRLECs, MoRLECs are foreclosed from receiving reciprocal compensation for any "true" local traffic Halo has terminated or will terminate to them via through its interconnection with AT&T. MoRLECs, among other things, have suffered the loss of reciprocal compensation revenue, thus putting pressure on other customers of MoRLECs (who pay their lawful rates) to make up the revenue shortfall created by Halo;
2. By transiting interexchange traffic through AT&T for termination to MoRLECs, Halo has avoided compliance with various rates, terms, and conditions of MoRLECs' access tariffs. MoRLECs, among other things, have suffered the loss of access revenue, thus putting pressure on other customers of MoRLECs (who pay their lawful rates) to make up the revenue shortfall created by Halo; and

3. Halo's refusal to negotiate an interconnection agreement and/or comply with MoRLECs' access tariffs, has forced MoRLECs to expend substantial time, effort and money in pursuing and/or defending their claims with Halo before various Regulatory Agencies and Courts.

Allegations

Come now Alma Communications Company d/b/a Alma Telephone Company, Chariton Valley Telephone Corporation, Chariton Valley Telecom Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, a corporate division of Otelco, Inc., and MoKAN DIAL, Inc., hereinafter collectively referred to as "Mo RLECs", pursuant to 47 USC 252 (e)(2), and hereby apply to the Commission for its Order rejecting those provisions of the interconnection agreement between Halo Wireless Inc. (hereinafter "Halo") and Southwestern Bell Telephone Company d/b/a AT&T Missouri (hereinafter "AT&T") that address, provide for, or contemplate AT&T will transit, transport, and terminate Halo traffic to third party carriers such as Applicants.

In support of this Application, Applicants state as follows:

1. Alma Communications Company d/b/a Alma Telephone Company (Alma) is a Missouri corporation with its principal office and place of business located at:

113 S. County Road
Alma, MO 64001

2. Chariton Valley Telephone Corporation (Chariton Valley) is a Missouri corporation with its principal office and place of business located at:

1213 East Briggs Drive
Macon, MO 63552

3. Chariton Valley Telecom Corporation (Chariton Valley Telecom) is a Missouri

corporation with its principal office and place of business located at:

1213 East Briggs Drive

Macon, MO 63552

4. Choctaw Telephone Company (Choctaw) is a Missouri corporation with its principal office and place of business located at:

204 W. Main

Halltown, MO 65664

5. Mid-Missouri Telephone Company (Otelco) is a Missouri corporation, and a wholly-owned corporate division of Otelco, Inc., with its principal office and place of business located at:

215 Roe Street

Pilot Grove, MO 65276

6. MoKAN DIAL, Inc. (MoKAN) is a Kansas corporation doing business in Missouri, with its principal office and place of business located at:

112 South Broadway

Louisburg, KS 66053

7. Copies of Mo RLECs' certificates of good standing issued by the Missouri Secretary of State were recently filed with the Commission in Mo RLECs complaint docketed as IC-2011-0385 as Exhibits 1, 2, 3, 4, 5, 6, and 7, and are incorporated by reference.

8. Matters regarding this Application may be directed to the attention of:

Craig S. Johnson
Johnson and Sporleder, LLP
304 E. High, Suite 200
P.O. Box 1670
Jefferson City, MO 65102
(573)659-8734
(573)761-3587 fax
cj@cjaslaw.com

9. Mo RLECs are “telecommunications companies” providing “basic local telecommunications services” and “exchange access services,” as those terms are defined by §386.020, to customers located in their service areas pursuant to a certificates of service authority issued by the Commission.

10. Mo RLECs Alma, Chariton Valley, Choctaw, Otelco, and MoKAN, are small rural incumbent local exchange companies, often referred to as “ILECs”.

11. Mo RLEC Chariton Valley Telecom is an alternative local exchange company, or competitive local exchange company, often referred to as a “CLEC”.

12. Mo RLECs are unaware of any pending action or final unsatisfied judgments or decisions issued against them from any state or federal agency or court within three years of the date of this complaint which involved customer service or rates. Mo RLECs’ annual reports to the Commission and assessment fees are not overdue.

13. On information and belief, Halo is a corporation organized under the laws of Texas. Halo was granted a registration to do business as a foreign corporation by the Missouri Secretary of State’s office on January 29, 2010. However, Halo’s registration to do business as a foreign corporation was administratively dissolved by the Missouri Secretary of State’s office on August 25, 2010. Halo claims to be a licensed CMRS provider, and claims that the traffic which is the subject of this Application is Halo’s own CMRS traffic.

14. To the best of Applicants’ knowledge, Halo’s address and contact person for service of process is:

John Marks, Attorney/General Counsel
Halo Wireless, Inc.
2351 West Northwest Highway

Suite 1204
Dallas, TX 75220

15. AT&T's address and contact person for service of process is:

Leo J. Bub, General Attorney
AT&T Missouri, One AT&T Center
Room 3518
St. Louis, MO 63101
(314) 235-2508
(314) 247-0014 fax
leo.bub@att.com

16. On June 17, 2010 Halo signed an interconnection agreement with AT&T. On June 21, 2010 AT&T signed this interconnection agreement. By letter of June 29, 2010 AT&T sent the agreement to the Missouri Public Service Commission as an adoption of a previously approved agreement between Southwestern Bell Telephone Company and Voicestream Wireless Corporation. By letter of June 30, 2010 the Commission advised that the agreement was effective June 29, 2010.

17. On June 17, 2010 Halo signed an amendment to this interconnection agreement. On June 21, 2010 AT&T signed this amendment. On June 30, 2010 AT&T filed an application with the MoPSC for approval of this amendment, which case was docketed as IK-2010-0384. The MoPSC made Halo a party to this docket. Staff filed a recommendation to approve the amendment. By Order of August 19, 2010 the amendment was approved.

18. As amended, the interconnection agreement between Halo and AT&T impacts Mo RLECs as it contains provisions whereby AT&T would transit traffic destined for other carriers such as Mo RLECs:

Section 1 definitions:

“Third Party Provider” shall mean any other facilities-based telecommunications carrier, including, without limitation, interexchange carriers, independent telephone companies, competitive local exchange carriers, or CMRS providers.

“Transiting Traffic” means intermediate transport and switching of traffic between two parties, one of which is not a party to this Agreement, carried by a Party that neither originates nor terminates that traffic on its network while acting as an intermediary.

Section 3.1.3 Traffic to Third Party Providers

“Carrier and SWBT shall compensate each other for traffic that transits their respective systems to any Third party Provider, as specified in Appendix PRICING. The Parties agree to enter into their own agreements with Third Party Providers. In the event that Carrier sends traffic through SWBT’s network to a Third Party Provider with whom Carriers does not have a traffic interchange agreement, then Carrier agrees to indemnify SWBT for any termination charges rendered by a Third party Provider for such traffic.”

Section 3.2.3 Exclusions

“Reciprocal Compensation shall apply solely to the transport and termination of Local Traffic, and shall not apply to any other traffic or services, including without limitation...3.2.3.2 Transiting Traffic”.

19. The provisions of the sections set forth in paragraph 18 contemplated that Halo would send to AT&T, and AT&T would transit Local and non-Local traffic to Mo RLECs for termination on Mo RLECs’ facilities, even though in Section 2.2.3 AT&T and Halo agreed that the terms and conditions specified in this Agreement do not apply to the provision of services or facilities by SWTB in those areas where SWBT is not the incumbent LEC.

20. The interconnection obligations of AT&T and Mo RLECs, except CLEC Chariton

Valley Telcom Corporation, are identical under the law. The interconnection rights of Halo with respect to AT&T and Mo RLECs, (except CV Telecom) are identical under the law. Generally, Halo can either request negotiations of an ILEC, or adopt an interconnection agreement previously entered into with an ILEC.

21. The interconnection agreement adopted by Halo with AT&T contained a plethora of provisions that parties to an interconnection agreement have the opportunity, and business right, to negotiate, or decide to adopt in lieu of negotiations, including but not limited to:

- a. interconnection facilities;
- b. interconnection facility location;
- c. the transmission and routing of reciprocal compensation traffic;
- d. the transmission and routing of exchange access traffic;
- e. the transmission and routing of other types of traffic;
- f. additional services;
- g. facility and service ordering, billing, and payment provisions;
- h. network maintenance;
- i. audit and verification reviews;
- j. liability limitation and indemnification;
- k. dispute resolution;
- l. access to rights of way;
- m. term and termination;
- n. amendment;
- o. assignment;
- p. the pricing of services and facilities provided.

Indeed the interconnection agreement between Halo and AT&T contained provisions on these very topics. Mo RLECs had no opportunity to negotiate these provisions with Halo prior to receipt of the Halo traffic transited by AT&T, as AT&T did.

22. Although Section 3.1.3 obligated Halo to “enter” into agreements with Mo RLECs, Halo did not do so.

23. Other CMRS providers have negotiated or adopted interconnection agreements with AT&T addressing traffic transited to Mo RLECs, and these other CMRS providers have at law and in fact complied with this provision and obtained interconnection or traffic termination agreements with Mo RLECs.

24. Instead of complying with its obligations under the Telecommunications Act of 1996, and its obligations under Section 3.1.3 of its agreement with AT&T, Halo did not obtain interconnection or traffic termination agreements with Mo RLECs. Instead Halo began sending traffic destined to terminate on Mo RLECs’ facilities, which AT&T transited to the Mo RLECs. Months later, when Mo RLECs became aware of this traffic by the provision of billing records, they billed Halo pursuant to their exchange access tariffs. Halo refused to pay any compensation.

25. Evaluation of the “Halo traffic” revealed that Halo is engaged in an access avoidance scheme with respect to traffic terminating to Mo RLECs. Prior to Halo’s emergence, this traffic was terminated by interexchange carriers, and Mo RLECs were paid terminating exchange access compensation, a vital source of revenue to Mo RLECs. Halo is taking moneys properly belonging to the Mo RLECs.

26. Mo RLECs have been deprived of compensation which should have been paid them. Mo RLECs have had to engage in undue efforts to rectify this access avoidance scheme. Some Mo RLECs have had AT&T block the Halo traffic, and be financially responsible to pay AT&T for this. The Mo RLECs have had to defend themselves from Halo United States District Court Petitions seeking to enjoin the Mo RLECs from availing themselves of state remedies.

The blocking Mo RLECs have had to defend themselves from Halo's pursuit of accelerated docket proceedings before the Federal Communications Commission.

27. As set forth above, the implementation of the interconnection agreement between Halo and AT&T, with respect to transit traffic to third party carriers such as Mo RLECs, as a matter of fact has been discriminatory to Mo RLECs, who are not parties to that agreement, and the actual implementation of those portions of the agreement encompassing or authorizing the transit of traffic to Mo RLECs is not consistent with the public interest, convenience, or necessity.

28. The transiting provision of the Halo/AT&T ICA has discriminated against MoRLECs by placing them in an inferior position compared to AT&T for the following reasons:

1. AT&T Missouri was afforded the opportunity to establish the terms of an interconnection agreement with Halo prior to the receipt of Halo traffic. Due to the transiting provision of the ICA allowing Halo to send traffic to the MoRLECs, with whom no agreement was established, MoRLECs have been deprived of the opportunity to establish the rates, terms and conditions for interconnection and the delivery of this traffic prior to its receipt from Halo.
2. AT&T Missouri was able to secure its ICA with Halo by the relatively minor effort of adopting an existing interconnection agreement. In contrast, MoRLECs have been required to expend substantial time, effort and expense in attempting to get Halo to fulfill its obligations under its ICA with AT&T and Sections 251 and 252 of the Act, to no avail.
3. The Halo/AT&T ICA provides that Halo will pay AT&T access compensation for interexchange or "non-local" traffic, reciprocal compensation for local traffic, and even transit compensation for traffic destined to terminate with the MoRLECs. The absence of an agreement with Halo has resulted in the MoRLECs receiving absolutely no compensation (i.e., exchange access or reciprocal compensation), for any traffic. Instead the MoRLECs have been deprived of any compensation for calls that, prior to Halo's a Halo activities, were the subject of tariffed exchange access compensation.
4. The Halo/AT&T Missouri ICA contains an approved dispute resolution process.

MoRLECs have no agreed dispute resolution process with Halo. As a result, MoRLECs have been forced to engage in traffic blocking, filing complaints, and defending themselves before the FCC and before the United States District Court.

29. The Transiting Provision in the Halo/AT&T Missouri ICA has also discriminated against other CMRS providers and interexchange carriers (IXCs) by placing Halo in a superior position vis-a-vis these other CMRS providers or IXCs for the following reasons:

1. Halo has not expended the time, effort, and expense to obtain agreements with the MoRLECs for traffic Halo is sending them over AT&T's transit facilities, as other CMRS providers have been required to do.
2. Halo is paying no compensation to MoRLECs, either access compensation for exchange access traffic or reciprocal compensation for local traffic. The other CMRS providers, in their agreements with the MoRLECs have established factors for proportioning the quantity and jurisdiction of exchange access and local traffic, and are paying the approved compensation amounts to the MoRLECs .
3. To the extent Halo is transiting interexchange traffic to MoRLECs, Halo has avoided complying with the rates, terms and conditions of MoRLECs' access tariffs. Specifically, Halo has not made a request for access service, interconnected at MoRLECs's access tandem and, most importantly, paid tariffed access charges as have all other IXCs.

31. The manner in which Halo has implemented the Transiting Provision of the Halo/AT&T Missouri ICA is not consistent with the public interest, convenience and necessity in the following respects:

1. By refusing to negotiate (and, if necessary, arbitrate) terms of an interconnection agreement with MoRLECs, MoRLECs are foreclosed from receiving reciprocal compensation for any "true" local traffic Halo has terminated or will terminate to them via through its interconnection with AT&T. MoRLECs, among other things, have suffered

the loss of reciprocal compensation revenue, thus putting pressure on other customers of MoRLECs (who pay their lawful rates) to make up the revenue shortfall created by Halo;

2. By transiting interexchange traffic through AT&T for termination to MoRLECs, Halo has avoided compliance with various rates, terms, and conditions of MoRLECs' access tariffs. MoRLECs, among other things, have suffered the loss of access revenue, thus putting pressure on other customers of MoRLECs (who pay their lawful rates) to make up the revenue shortfall created by Halo; and

3. Halo's refusal to negotiate an interconnection agreement and/or comply with MoRLECs' access tariffs, has forced MoRLECs to expend substantial time, effort and money in pursuing and/or defending their claims with Halo before various Regulatory Agencies and Courts.

32. 47 USC 252 (e) (2) (A) authorizes this Commission, and gives this Commission the jurisdiction and discretion, to reject an interconnection agreement, or any portion thereof, adopted by negotiation under subsection (a) if it find that (i) the agreement (or any portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or (ii) if the implementation of such agreement or portion is not consistent with the public interest, convenience, or necessity.

33. The portions of the interconnection agreement set forth in paragraph 18 above, as implemented, as a matter of fact discriminate against Mo RLECs to their detriment, and against other CMRS providers to their detriment, and the implementation of such portions of the agreement are inconsistent with the public interest, convenience, or necessity.

MEDIATION

Respectfully, Mo RLECs are not willing to participate in mediation to address resolution of this dispute. Mo RLECs have been attempting to resolve these disputes for months with Halo, without success or meaningful progress.

PRAYER FOR RELIEF

WHEREFORE, Applicant Mo RLECs respectfully request that the Commission enter an order rejecting and terminating those provisions of the interconnection agreement between Halo and AT&T that authorize and permit Halo to send to AT&T, and AT&T to transit to send to the Mo RLECs, Halo traffic destined to terminate with Third Party Providers such as the Mo RLECs.

Respectfully submitted,

/s/Craig S. Johnson
Craig S. Johnson
Mo Bar # 28179
Johnson & Sporleder, LLP
304 E. High St., Suite 200
P.O. Box 1670
Jefferson City, MO 65102
(573) 659-8734
(573) 761-3587 FAX
cj@cjlaw.com

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was electronically mailed this 1st day of August, 2011 to:

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
gencounsel@psc.mo.gov

Lewis Mills
Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102
lewis.mills@ded.mo.gov

John Marks
General Counsel
Halo Wireless
2351 Northwest Highway
Suite 1204
Dallas, TX 75220
jmarks@halowireless.com

Leo J. Bub, General Attorney
AT&T Missouri, One AT&T Center
Room 3518
St. Louis, MO 63101
(314) 235-2508
(314) 247-0014 fax
leo.bub@att.com

/s/Craig S. Johnson
Craig S. Johnson

STATE OF Missouri)
COUNTY OF Lafayette)

AFFIDAVIT OF LARRY SULLIVAN

I, Larry Sullivan, General Manager of Alma Communications Company d/b/a Alma Telephone Company, hereby swear and affirm that I am authorized to speak on behalf of Alma and to attest to the veracity of the statements contained in this Complaint.

Larry Sullivan
Larry Sullivan

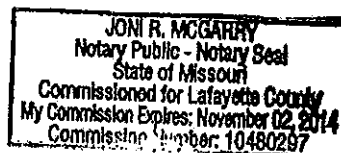
State of Missouri)
County of Lafayette) SS

I, Joni R. McGarry, a Notary Public do hereby certify that on this 27 day of July, 2011 personally appeared before me Larry Sullivan who declared that all of the information contained herein above is true, to the best of his knowledge and belief.

Joni R. McGarry
Notary Public

My Commission expires:

11-2-2014



STATE OF MISSISSIPPI)
)
COUNTY OF CHARLTON)

AFFIDAVIT OF JAMES SIMON

I, James Simon, General Manager of Chariton Valley Telephone Corporation and Chariton Valley Telecom Corporation, hereby swear and affirm that I am authorized to speak on behalf of Chariton Valley and Chariton Valley Telecom and to attest to the veracity of the statements contained in this Complaint.


James Simon

State of MISSISSIPPI)
) SS
County of MAUREL)

I, Audra E. Linebaugh, a Notary Public do hereby certify that on this 1st day of August, 2011 personally appeared before me James Simon who declared that all of the information contained herein above is true, to the best of his knowledge and belief.



AUDRA E. LINEBAUGH
My Commission Expires
May 27, 2014
Chariton County
Commission #10434277


Notary Public

My Commission expires: May 27, 2014

STATE OF FLORIDA)
)
COUNTY OF CLAY)

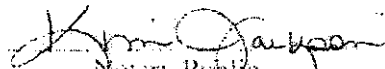
AFFIDAVIT OF DEBORAH NOBLES

I, Deborah Nobles, Vice President of Regulatory Affairs of Choctaw Telephone Company and MoKAN DIAL, Inc., hereby swear and affirm that I am authorized to speak on behalf of Choctaw and MoKAN and to attest to the veracity of the statements contained in this Complaint.

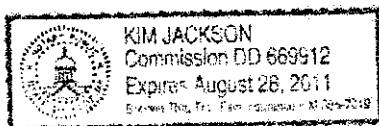

Deborah Nobles

State of FLORIDA)
) SS
County of CLAY)

I, Kim Jackson, a Notary Public do hereby certify that on this 29th day of July, 2011 personally appeared before me Deborah Nobles who declared that all of the information contained herein above is true, to the best of her knowledge and belief.


Notary Public

My Commission expires: August 28, 2011



STATE OF Missouri)
)
COUNTY OF Cooper)

AFFIDAVIT OF TODD WESSING

I, Todd Wessing, General Manager of Mid-Missouri Telephone Company, a corporate division of Otelco Inc., hereby swear and affirm that I am authorized to speak on behalf of Mid-Missouri/Otelco and to attest to the veracity of the statements contained in this Complaint.

Todd Wessing
Todd Wessing

State of Missouri)
) SS
County of Cooper)

I, Chrysa Lorenz, a Notary Public do hereby certify that on this 29th day of July, 2011 personally appeared before me Todd Wessing who declared that all of the information contained herein above is true, to the best of his knowledge and belief.

"NOTARY SEAL"
Chrysa L. Lorenz, Notary Public
Cooper County, State of Missouri
My Commission Expires 8/12/2011
Commission Number: 07420023

My Commission expires: August 12, 2011

Chrysa Lorenz
Notary Public