Exhibit No.:
Issues: Multiple jurisdictional, contractual, and policy related issues
Witness: Robert Johnson
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Halo Wireless, Inc.
Case Nos.: TC-2012-0331 and TO-2012-0035

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

Halo Wireless, Inc.,	§	
	§	
Complainant,	§	Case No. TC-2012-0331
	§	
v.	§	
	§	
Craw-Kan Telephone Cooperative, Inc., et al.,	§	
	§	
Respondents.	§	
		consolidated with

Alma Communications Company d/b/a Alma Telephone Company, et al.	§	
	§	
	§	Case No. IC-2012-0035
Complainants,	§	
	§	
vs.	§	
Halo Wireless, Inc. and Southwestern Bell Telephone Company, d/b/a AT&T Missouri,	§	
Respondents.	§	

PRE-FILED REBUTTAL TESTIMONY OF ROBERT JOHNSON ON BEHALF OF HALO WIRELESS, INC.

JUNE 19, 2012

AFFIDAVIT OF ROBERT JOHNSON

STATE OF TEXAS §
§
COUNTY OF TARRANT §

I, Robert Johnson, of lawful age, being duly sworn, depose and state:

1. My name is Robert Johnson. I am the President of Ameliowave, Inc., which is a consulting and software development practice that is under contract with Transcom Enhanced Services, Inc. to provide support for managing existing products, developing new products, and architecting the platform and systems that support all products.

2. Attached hereto and made a part hereof for all purposes are my Rebuttal Testimony and true and correct copies of the exhibits thereto.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

ROBERT JOHNSON

SUBSCRIBED and SWORN TO before me, on this the 19 day of June, 2012.

SHEILA O'FLINN
MY COMMISSION EXPIRES
February 27, 2013

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Commission Expires: 2-27-13

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PRE-FILED REBUTTAL TESTIMONY OF ROBERT JOHNSON

INTRODUCTION

Q: Please state your name, title and business address.

A: My name is Robert Johnson. I am the President of Ameliowave, Inc. My business address is 307 W. 7th St., Suite 1600, Ft. Worth, TX 76107. Ameliowave is a consulting and software development practice that is under contract with Transcom Enhanced Services, Inc. ("Transcom") to provide support for managing existing products, developing new products, and architecting the platform and systems that support all products.

Q: Are you an attorney?

A: No.

Q: On whose behalf are you appearing?

A: I am supplying testimony concerning Transcom Enhanced Services, Inc. ("Transcom"), which is a business end user customer that purchases wireless-based telephone exchange service from Halo Wireless, Inc. ("Halo").

Q: Are you the same Robert Johnson who presented Direct Testimony in this matter?

A: Yes.

Q: What is the purpose of this Rebuttal Testimony?

A: I will respond to the Direct Testimonies of the staff witness and the witnesses for AT&T (the "AT&T Witnesses") and the RLECs (the "RLEC Witnesses") in consolidated cases, No. TC-2012-0331 (the "Blocking Proceeding"), and No. IC-2012-0035 (the "ICA Rejection Proceeding" and collectively with the Blocking Proceeding, the "MOPSC Proceedings"). In particular, I will respond to the Direct Testimonies of William Voight for the Staff, J. Scott McPhee and Mark Neinast for AT&T (the "AT&T Witnesses"), Tommie Sue Loges for Alma Telephone Company, Amanda Molina for Choctaw Telephone Company and Mokan Dial Inc., and Debbie Choate for Miller Telephone Company (collectively the "Opposing Party Testimony"). I will also provide additional rebuttal testimony relevant to the facts in the MOPSC Proceedings to inform the Commission and assist it in ruling on the matters before it in the MOPSC Proceedings.

Q: Will you specifically "rebut" everything in the Opposing Party testimony that you take issue with?

A: No. Many of the things they say were already and sufficiently addressed in my Direct. In order to conserve time and paper I will not repeat what I've already said. My silence in this

Rebuttal Testimony on a claim or argument made in the Opposing Party Testimony should not be interpreted as assent, concurrence, agreement or admission. To the contrary.

Q: To the extent you respond to specific testimony by the Opposing Parties are you agreeing the testimony is relevant and admissible?

A: No. My Rebuttal is presented in case the Commission decides to receive and consider the Opposing Party Testimony to which I respond.

Q: Have you read the Opposing Party Testimony?

A: Yes, I have read the Opposing Party Testimony and will respond to same below.

RESPONSE TO MCPHEE

Q. On page 8 of his direct testimony, Mr. McPhee alleges that Transcom operates "switches." Is this correct?

A. Transcom has a Veraz IP Control Switch located in Dallas, Texas. However, as part of its overall distributed platform, Transcom operates primarily through media gateways and customer premises equipment ("CPE"), which I would not consider be "switches." Notably, AT&T's own witnesses have acknowledged this fact in prior proceedings between AT&T and Halo regarding these same issues. In any event, Transcom does not operate any switches in Missouri.

Q: On page 8 of his Direct Testimony, Mr. McPhee claims that Transcom's website represents that Transcom's "core service offering" is "voice termination services." Is he correct?

A: No. Mr. McPhee is referring to a previous version of Transcom's website, which did contain the specific phrases that he includes in his testimony, but they are not part of Transcom's current website. Mr. McPhee admits to this fact in a footnote to his testimony, although he clouds the truth with aspersions that the change to the website were because the purported "admissions" on the website were "hurting" Transcom in these proceedings.

Q: Why did the website change?

A: As I testified in a previous proceeding, which Mr. McPhee acknowledges in footnote 14 in his Direct Testimony, it was thanks to AT&T that I became aware that Transcom's website was failing to do its job as a marketing vehicle for Transcom's enhanced services. If it was "hurting" Transcom, it was only hurting in the sense of failing to do its job as a marketing vehicle.

Q: Was the website "hurting" Transcom in these proceedings?

A: Absolutely not. Although Mr. McPhee pretends to not understand the purpose of a public website, I have no doubt that the Missouri PSC and Transcom's customers do understand that Transcom's website, like most other websites, exists to provide a web presence for Transcom. It in no way, establishes a "holding out" by Transcom as a Common Carrier. Nothing on the site, then, now, or ever, would support that separate conclusion. More importantly, I am sure that the Missouri PSC would agree that an entity's website cannot be the basis for establishing its regulatory status.

Q: Did Mr. McPhee claim that Transcom was "holding out" as a Common Carrier?

A: No. Instead, he insinuates it because he knows it is not true and that he simply has no factual basis or evidence for asserting that Transcom was "holding out" or has ever "held out" as a Common Carrier.

Instead, he claims that the "voice termination services" that Transcom offers are "the intermediate routing of telephone calls between carriers for termination to the carriers serving the called party." He gives no basis for this definition other than he made it up, even after I've testified repeatedly in these proceedings that these "voice termination services" are part of an inseparable bundle that includes Transcom's enhanced functionality. The problem is that even if

we incorrectly accept the proposition Transcom is not an ESP that still does not resolve the second and separate question of whether Transcom is a Common Carrier. Mr. McPhee's conclusion can only be correct if and to the extent that Transcom is (1) not acting as an ESP ***and*** (2) is a Common Carrier.

He goes on to state that Transcom claims that it "provides service to the largest Cable/MSOs, CLECs, broadband service providers, and wireless customers." While it is true that Transcom customers are often themselves service providers, that in no way makes Transcom a Telecommunications Carrier or a Common Carrier.

In other words, Mr. McPhee has at best made out a case that Transcom uses telecommunications that it obtains from other parties to provide its service. But all ESPs by definition do so; it is part of the statutory definition that information services are provided "via" telecommunications. He completely fails to show that Transcom *provides* telecommunications. And he most certainly has not shown that Transcom provides telecommunications service because before any finding to that effect can be made there must be a determination that the provider is a "telecommunications carrier" which in turn requires a finding that the provider is a common carrier.

Q: In his Direct Testimony, Mr. McPhee claims that in their USF and ICC Reform Order, the FCC "rejected" Halo's argument that Transcom's traffic is "originated" to Halo. Do you agree with his reading of the FCC's Order?

A: No. Mr. McPhee quotes ¶1003 – ¶1006 of the FCC's Order in their entirety, then selects portions of ¶1005 and ¶1006 to support his argument that "[t]he FCC rejected Halo's argument about where Halo's calls originate…" However, as I previously noted in my Direct Testimony, Mr. McPhee and AT&T appear to misunderstand or misinterpret ¶1005, which is merely an

explanatory paragraph and not part of the FCC's ruling, which is contained, in its entirety, in ¶1006:

> 1006. We clarify that a call is considered to be originated by a CMRS provider ***for purposes of the intraMTA rule*** only if the calling party initiating the call has done so through a CMRS provider. Where a provider is merely providing a transiting service, it is well established that a transiting carrier is not considered the originating carrier for purposes of the reciprocal compensation rules. Thus, we agree with NECA 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. (Emphasis added, footnotes omitted).

As I also noted in my Direct testimony, AT&T misinterprets the FCC's ruling to mean that Transcom does not originate further communications to Halo, so the traffic Transcom is sending to Halo must be originated somewhere else. However, even using my layman's reading of the FCC's ruling, its says that this particular finding applies only "for purposes of the intraMTA rule" and "for purposes of reciprocal compensation," which are two ways of saying the same thing. Transcom's position that, as an ESP, it originates a further communication to Halo using its wireless CPE and, thus, that traffic was before the ruling and still is "wireless-originated" for purposes of the contract provision is both consistent with, and supported by the FCC's ruling.

Q: In his Direct Testimony, Mr. McPhee claims that "neither Transcom nor any customer of Transcom actually initiates any telephone calls" and that because Transcom's customers are themselves service providers that Transcom cannot be providing an Enhanced Service? How do you respond?

A: Under Mr. McPhee's theory, Transcom is not "the" "calling party" and does not directly serve the "calling party." However, he makes no effort to tie this "fact" to any conclusion, legal

or otherwise. Instead, he merely hopes that the Commission will completely skip over Transcom's participation, and the participation of Transcom's customers', looking instead to the "calling party" as the important link – but then try to bind Transcom and Halo to what those people who are not in anyway associated with either Transcom or Halo do.

In fact, in the case where the "person who picks up the phone" is a subscriber to an Information Service like a cable company's voice offering, an "over the top" service like Vonage or something like Skype or GoogleVoice there is no "origination" in the traditional sense. (See Johnson Exhibit 5). As the AT&T Witnesses have admitted under oath during cross examination in previous proceedings, in that case, the first time the "call" enters the PSTN is where Transcom, as an End User of a Telecommunications Service "originates" the call using the modern equivalent of a "Leaky PBX." (See Johnson Exhibit 6). However, by that logic, Transcom is always the "originating party" of the Telecommunications it originates as an End User of a Telecommunications Service, regardless of what kind of service the "person who picks up the phone" is using.

It is important to note here that McPhee uses the term "initiates" and not "originates" in his statement. He is implicitly acknowledging that Transcom must "originate" traffic to Halo, even if another party "initiated" this traffic on some network and it is then handled by Transcom. In effect, McPhee's choice of words only serves to further support Transcom's statement of fact, that it is ***always*** an End User when it subscribes to a Telecommunications Service and it ***always*** "originates" traffic when it uses that Telecommunications Service.

RESPONSE TO NEINAST

Q. On page 4 of his Direct Testimony, Mr. Neinast claims that if the Missouri PSC follows the FCC's lead, the only possible conclusion is that Halo breached its ICA with AT&T Missouri. How do you respond?

A. My response is the same as my response to Mr. McPhee's interpretation of the FCC's Order. The AT&T Witnesses are reading requirements into the FCC's Order that simply do not exist. Based on the advice of counsel, it is my understanding that although the FCC's order does purport to address Transcom's argument regarding its origination of traffic in the same MTA as Halo, the FCC made clear that its finding was "for purposes of reciprocal compensation." The FCC expressly indicated that its finding was not for ***all purposes***. I am not a lawyer, but even with my layman's reading of the pleadings in this matter, it is seems obvious that the FCC's order cannot be dispositive of the question of whether Halo has breached the ICA because unlike the FCC's Order, the ICA covers far more than just reciprocal compensation.

Q: Both Mr. Neinast and Mr. McPhee claim that the traffic Transcom originates to Halo using its CPE is "wireline-originated" and not "wireless-originated" traffic. How does this fit with the actual facts?

A: In this case, not well. The logical conclusion of the actual facts is that, since Transcom does not provide Telecommunications Services, it is not a Telecommunications Carrier, so it must be an End User that "originates" Telecommunications Services. Further, since Transcom's CPE constitutes "wireless transmitting and receiving facilities" and the Telecommunications Services Transcom originates using that CPE are wireless Telecommunications Services, Transcom's traffic that it originates to Halo must be "wireless-originated" and not "wireline-originated."

Q: How do the AT&T Witnesses distort the basic facts here to fit their position?

A: Mr. Neinast claims in his Direct Testimony that the traffic Transcom originates to Halo are actually "calls originate[d] with end-user customers of various landline and wireless service providers using either landline or wireless equipment," which he further claims is "wireline-originated" traffic. However, his only basis for this claim is a traffic study that looks at the Calling Party Numbers ("CPNs") of the traffic Transcom originated to Halo, which is inconsistent with the actual facts of this case. The two AT&T witnesses are simply deeming the traffic to always be "wireline-originated" even though they both admit that at least some is not originated from a legacy handset connected to the traditional circuit-switched PSTN. To them a call is "wireline" if it happens to contain a "wireline" number in signaling, even if in fact the call started out wireless or on a broadband network. They simply "assume" the conclusion they want to reach by deeming everything to be "wireline" to "prove" everything is "wireline."

First, Mr. Neinast has made no attempt to ascertain if the calling party even subscribes to a Telecommunications Service. He assumes that, because the calling party has a CPN,[1] it must be an End User of a Telecommunications Service, which is a false assumption. Further, he assumes that, if the calling party has a CPN because it is an End User of a Telecommunications Service, then the calling party must necessarily have sent its communications traffic using that Telecommunications Service and using the network of the carrier that is the code-owner. Both of these are unsupportable assumptions. They then try to "correct" for this problem by arbitrarily reducing the percentage that is said to be "wireline" by discounting a few specific code-owners'

[1] I must note at this point that Mr. Neinast has to admit that Halo is signaling the phone number of the person he says is the call originator without any change. There is and can be no allegation that Halo is stripping or altering CPN. Thus there can be no serious claim that Halo has in any way failed to deliver "originating caller identification" as defined in rule 240-29.020(28). Halo did supply additional information in the Charge Number parameter, but always also provided the very originating caller identification called for by the rule. Their complaint that Halo violated the rule by providing the information the rule requires and also giving additional information is ludicrous.

numbers. This assumes, of course, that it is only those companies' numbers that might not originate on the legacy PSTN, but they provide no basis for this "limiting" assumption. I disagree that someone can fix one bad assumption by making a second, equally bad assumption.

Further, even assuming that the calling party is an End User of a Telecommunications Service that originated Telecommunications traffic using its CPE to a Telecommunications Carrier, if that traffic is terminated to Transcom using its CPE, then, because Transcom is an End User, the Telecommunications Service is terminated as well. Transcom would then originate a further communication to deliver the enhanced communications traffic to the called party.

If Transcom originated that further communication using an Information Service, there would be no question in anyone's mind that the Telecommunications Service necessarily terminated on Transcom's CPE, but in this case, Transcom originates that further communication to Halo using a Telecommunications Service. Although that appears to have confused Mr. Neinast into believing that the calling party originated a Telecommunications Service to the called party, the basic facts do not support that position.

Q: AT&T adheres to an "end-to-end" theory, and rejects the "two-call" theory with the result that Transcom cannot be an end point. Do you agree?

A: AT&T asserts the "end-to-end" theory when it supports their claims, but they hasten to abandon it when it means they must pay compensation to some other carrier, or when it would serve to reduce their revenue. While the end-to-end theory is a legitimate and well-accepted tool to segregate interstate calls from intrastate calls, the D.C. Circuit has made it absolutely clear that "end-to-end" concepts do not determine the intercarrier compensation that may apply to a call. *See e.g. Bell Atlantic*, 206 F.3d at 5-6.[2]

[2] Calls to ISPs are not quite local, because there is some communication taking place between the ISP and out-of-state websites. But they are not quite long-distance, because the subsequent communication is not really a

Q: Mr. Neinast's Testimony once again argues that Transcom is not an ESP because it merely "improves the call quality of transmission." What logical difficulties do you see with that claim?

A: Mr. Neinast's testimony presents a false dichotomy. He assumes that if Transcom is *not* an ESP then it *must* be a carrier. That is most definitely not true. Even if Transcom is not an ESP (which of course Transcom denies) that does not mean Transcom *is* a common carrier. My layman's understanding is that an entity must "hold out" as a common carrier, or there must be some legal compulsion that the entity be a common carrier. Otherwise, the entity is at best a

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continuation, in the conventional sense, of the initial call to the ISP. The [FCC's] ruling rests squarely on its decision to employ an end-to-end analysis for purposes of determining whether ISP traffic is local. There is no dispute that the Commission has historically been justified in relying on this method when determining whether a particular communication is jurisdictionally interstate. But it has yet to provide an explanation why this inquiry is relevant to discerning whether a call to an ISP should fit within the local call model of two collaborating LECs or the long-distance model of a long-distance carrier collaborating with two LECs.

In fact, the extension of "end-to-end'" analysis from jurisdictional purposes to the present context yields intuitively backwards results. Calls that are jurisdictionally intrastate will be subject to the federal reciprocal compensation requirement, while calls that are interstate are not subject to federal regulation but instead are left to potential state regulation. The inconsistency is not necessarily fatal, since under the 1996 Act the Commission has jurisdiction to implement such provisions as § 251, even if they are within the traditional domain of the states. See AT&T Corp., 119 S.Ct. at 730. But it reveals that arguments supporting use of the end-to end analysis in the jurisdictional analysis are not obviously transferable to this context.

…

In its ruling the Commission avoided this result by analyzing the communication on an end-to-end basis: "[T]he communications at issue here do not terminate at the ISP's local server TTT, but continue to the ultimate destination or destinations." FCC Ruling, 14 FCC Rcd at 3697 (¶ 12). But the cases it relied on for using this analysis are not on point. Both involved a single continuous communication, originated by an end-user, switched by a long distance communications carrier, and eventually delivered to its destination.

…

ISPs, in contrast, are "information service providers," Universal Service Report, 13 FCC Rcd at 11532-3 (¶ 66), which upon receiving a call originate further communications to deliver and retrieve information to and from distant websites. The Commission acknowledged in a footnote that the cases it relied upon were distinguishable, but dismissed the problem out-of-hand: "Although the cited cases involve interexchange carriers rather than ISPs, and the Commission has observed that `it is not clear that [information service providers] use the public switched network in a manner analogous to IXCs,' Access Charge Reform Order, 12 FCC Rcd at 16133, the Commission's observation does not affect the jurisdictional analysis." FCC Ruling, 14 FCC Rcd at 3697 n.36 (¶ 12). It is not clear how this helps the Commission. Even if the difference between ISPs and traditional long distance carriers is irrelevant for jurisdictional purposes, it appears relevant for purposes of reciprocal compensation. Although ISPs use telecommunications to provide information service, they are not themselves telecommunications providers (as are long-distance carriers).

"private" carrier, if it is a carrier at all. Transcom has not ever held out to "serve indifferently all potential users." To the contrary, Transcom has zealously acted to protect its ability to freely choose those with whom it will deal, and on what terms. Transcom is not a carrier. Transcom aggressively sought and won three separate decisions by federal courts that it is an ESP, which necessarily means it is not acting as a common carrier.

Under FCC rule 69.2(m) "any customer of an interstate or foreign telecommunications service that is not a carrier" is an end user. So even if Transcom is not an ESP for so long as it is not a carrier, then it is still an end user. AT&T keeps wanting to put the carrier label on Transcom, but I have seen no testimony or other evidence proffered by AT&T that Transcom is or must be a common carrier. AT&T has not in any way shown that there has been a holding out. Transcom clearly *uses* transmission, but it does not *provide* any stand-alone transmission on a common carrier basis.

This point is key to Mr. Neinast's argument that Transcom is merely improving the audio quality of transmission. What he is really urging is that Transcom is merely improving upon, but still providing, a "basic" transmission (telecommunications) service and therefore the "improvements" (enhancements) – which he clearly admits are occurring – are "adjunct to basic" in regulatory parlance and thus "not enhanced." The problem, of course, is that Transcom is not a carrier, so it simply cannot be said to be providing any "telecommunications service." My understanding of the "adjunct to basic" principle is that it only applies to entities that are common carriers. Since Transcom is not a common carrier it does not provide "basic" transmission service as a common carrier. There is no "basic" service to which the admitted enhancements can be "adjunct." The "adjunct to basic rule" applies to AT&T (since it is a

common carrier), but it does not apply to Transcom for the simple reason that Transcom is not a carrier.

The *correct* principle to apply to entities that are not common carriers is the "contamination doctrine." It is my understanding that the FCC has long recognized that when an entity that is not a common carrier adds enhanced/information functions on top of telecommunications it obtains from third party providers, the addition of any enhanced functionality "contaminates" the telecommunications, with the result that the ESP's finished service is "enhanced/information" rather than "telecommunications." Therefore, Transcom must be an ESP. As noted, even if Transcom is wrong on that issue, it is still an End User. End Users originate calls, and calls terminate to End Users. That is why the leaky PBX rules exist.

Q: What does Mr. Neinast make of the Federal Bankruptcy Court rulings that establish Transcom as an ESP (the "ESP Rulings")?

A: Mr. Neinast appears to entirely disregard the applicability of these rulings. However, to support his argument as to why Transcom is not an ESP, Mr. Neinast claims that the Tennessee Regulatory Authority ("TRA") recently ruled in a case where Transcom was a party that Transcom was not an ESP. In addition, Mr. Neinast also refers to a ruling by the Pennsylvania Public Utility Commission ("PPUC") in a case where Transcom was not a party that Transcom was not an ESP. Unfortunately for Mr. Neinast, it is my understanding, based on advice of counsel, that although the ESP rulings are binding on AT&T, neither the TRA ruling nor the PPUC ruling are binding on this Missouri PSC.

Q: As you have noted, the AT&T Witnesses rely on the TRA ruling that Transcom is not an ESP. Why might the TRA ruling be misleading to the Commission?

A: The TRA ruled in a proceeding that Transcom was a participant that Transcom was not an ESP for this traffic based on the description AT&T gave of Transcom's enhanced services and enhanced service platform. I provided true and accurate testimony to the TRA of the nature of Transcom's enhanced services and enhanced service platform, as well as made myself available for cross examination during the hearing. No questions were posed to me about this testimony and none of it appears in the final TRA ruling. I note that the TRA expressly refused to rule on whether Transcom is a Common Carrier. In short, in addition to being non-binding on the Missouri PSC, the TRA ruling doesn't actually provide any real analysis of whether Transcom is an ESP.

RESPONSE TO RLEC WITNESSES

Q. The RLEC Witnesses claim that their blocking requests are supported by the FCC recent order. How do you respond?

A. My response is the same as it was for AT&T's Witnesses. The FCC Order simply does not address all of the issues in dispute in the MOPSC Proceedings and thus cannot be dispositive of the issues of to be decided in these cases.

Q. Like AT&T's Witnesses, the RLEC Witnesses all claim that the traffic in question is "landline originated." How do you respond?

A. The RLEC Witnesses admit that the sole bases of their claims that the traffic in question is "landline-originated" traffic are AT&T's traffic studies. However, AT&T has not given Halo or any of the RLECs any of the data AT&T used to make its studies. Thus, the RLECs' reliance

on AT&T's traffic studies is an admission that the RLECs have no actual knowledge of whether the traffic in question is actually "landline-originated" and that the RLECs have no legitimate basis of their own for supporting their blocking requests. This is emphasized by the fact that even AT&T, who created the studies, has previously acknowledged that it cannot determine for certain whether all of the traffic in question actually "originated" on a landline.

Q. The RLECs claim that they know that some of the traffic was landline originated using feature group D signaling or trunking protocols because "InterLATA landline traffic is carried by interexchange carriers (IXCs). IXC traffic is originated using feature group D signaling and trunking protocols." How do you respond?

A. The RLECs admit that Halo is delivering the traffic to AT&T over interconnection trunks. These are not Feature Group D arrangements. The RLECs also admit that AT&T sends them Halo's traffic over the "LEC-to-LEC network" which by definition is "Feature Group C" and not Feature Group D. They never claim that the connection between Halo and Transcom is "Feature Group D." I cannot fathom how they can still assert that the traffic "originated" using Feature Group D given their admissions, unless what they are really arguing is that the calls they identify as "landline" in the AT&T "call studies" were dialed "1+" and the user's call attempt was routed over originating Feature Group D trunks to an IXC.

Q: Do they ever actually explain that this is their argument?

A: Not at all.

Q: Do the ILECs present even a shred of evidence that any call delivered by Halo to AT&T did actually start out with an end user on a legacy ILEC circuit switched network who dialed 1+ and the call was routed to an IXC by the end user's ILEC?

A: I do not see any such evidence. All we have are assumptions based on an examination of the "originating caller identification" that Halo faithfully supplied to AT&T. They are ***assuming*** that the call started on an ILEC circuit switched network. They are ***assuming*** that the call was dialed 1+. They are ***assuming*** the call was routed to an IXC. Ultimately, their claims are nothing but an exercise in begging the question, because they do nothing but assume the violation they claim occurred.

Q: Does this conclude your testimony?

A: Yes.[3]

[3] I reserve the right to make corrections of any errors I may discover by submitting an *erratum*.