

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

Halo Wireless, Inc.,)	
)	
Complainant,)	
)	
v.)	
)	
Craw-Kan Telephone Cooperative, Inc.,)	
Ellington Telephone Company, Goodman)	
Telephone Company, Granby Telephone)	
Company, Iamo Telephone Company, Le-Ru)	
Telephone Company, McDonald County)	
Telephone Company, Miller Telephone)	Case No. TC-2012-0331
Company, Ozark Telephone Company, Rock)	
Port Telephone Company, Seneca Telephone)	
Company, Alma Communications Company)	
d/b/a Alma Telephone Company, Choctaw)	
Telephone Company, Mokane Dial, Inc.,)	
Peace Valley Telephone Company, Inc., and)	
Southwestern Bell Telephone Company,)	
d/b/a AT&T Missouri,)	
)	
Respondents.)	

AT&T RESPONSE TO HALO REQUEST FOR STAY

Halo's request that this action be “stayed until the Bankruptcy Court rules on the propriety of the blocking notices”¹ is simply another transparent attempt by Halo to forestall state commission adjudication of Halo's unlawful practices in proceedings that are plainly within state commission authority. The Commission should see through Halo's obvious stall tactics and direct this case to proceed.

1. Courts and Other Commissions Have Rejected Similar Attempts by Halo to Stay State Regulatory Proceedings.

Halo has done its utmost to try to prevent this Commission, and others, from reaching a decision on the merits (while in the meantime Halo continues to send millions of minutes of traffic

¹ Halo Formal Complaint, filed April 3, 2012 at p. 21.

each month to AT&T and other carriers, for which Halo is not paying the applicable access charges).

Halo's tactics have been rejected at every turn. Halo began its attempts to stall state regulatory proceedings by filing for bankruptcy on the day before the first evidentiary hearing was supposed to occur before a state commission (in Georgia) and claiming that this stayed all the state commission proceedings. The bankruptcy court, however, held it did not. Halo then filed a motion asking the bankruptcy court to "stay" its ruling that the state commission proceedings can proceed, and the bankruptcy court denied Halo's motion.² So Halo asked the federal district court in Texas to "stay" the bankruptcy court's decision and enjoin the state commissions from going forward with the pending cases. That motion too was denied.³ Finally, Halo asked the Fifth Circuit for permission to appeal the bankruptcy court's decision directly to the Fifth Circuit, and to vacate that decision and stay the state commission proceedings while that appeal is pending. The Fifth Circuit allowed Halo to lodge its appeal directly with the Fifth Circuit (without objection from AT&T), but it denied Halo's request to vacate the bankruptcy court's decision and to stay the state commission proceedings.⁴

While all that was going on, Halo also removed the state commission complaint cases to various federal courts, erroneously claiming exclusive federal jurisdiction. All nine federal courts to rule on Halo's removal petitions (Georgia, Tennessee, Florida, Missouri, Alabama, South

² Order Denying Motions for Stay Pending Appeal, *In re: Halo Wireless, Inc.*, Case No. 11-42464 (Bankr. E.D. Tex., Nov. 1, 2011) (Exhibit "A" hereto).

³ Order Denying Emergency Motion for Stay Pending Appeal, *In re: Halo Wireless, Inc., Halo Wireless, Inc. v. Sw. Bell Tel. Co.*, Case No. 4:11-mc-55 (E.D. Tex., Nov. 30, 2011) (Exhibit "B" hereto).

⁴ Order, *Halo Wireless, Inc. v. Alenco Commc'ns, Inc., et al.*, Case No. 11-90050 (5th Cir. Feb 2, 2012) (Exhibit "C" hereto).

Carolina, Mississippi, Texas and Kentucky) remanded the cases to the relevant state commission.⁵ Further, in the four other state commissions that finally started moving forward after the delay caused by Halo's removals, Halo filed motions to dismiss making the same arguments it makes here. All four state commissions (Tennessee, Wisconsin, South Carolina and Florida) denied those motions.⁶

2. The Blocking Relief Sought by AT&T and the Other Missouri LECs does not Violate the Bankruptcy Stay.

The blocking relief AT&T and the other Missouri LECs seek under the Missouri Commission's Enhanced Record Exchange Rules⁷ is identical to the relief sought by and awarded to AT&T by the Tennessee Regulatory Authority allowing AT&T to stop accepting traffic from Halo.⁸ When Halo sought to enjoin AT&T's discontinuation of services on grounds similar to those asserted here, the bankruptcy court denied the relief, holding that Halo "failed to establish a likelihood of success on the merits of its complaint and the Injunction Request."⁹

⁵ Order, *Halo Wireless, Inc. v. TDS Telecommc'ns Corp.*, Civil Action No. 2:11-CV-158-RWS (N.D. Ga. Jan. 26, 2012); Memorandum, *BellSouth Telecommc'ns, Inc. v. Halo Wireless, Inc.*, No. 3-11-0795 (M.D. Tenn., Nov. 1, 2011); Order of Remand, *BellSouth Telecommunications, LLC v. Halo Wireless, Inc.*, Case No. 4:11cv470-RH/WCS (N.D. Fla., Dec. 9, 2011); Order, *Alma Commc'ns Co. v. Halo Wireless, Inc., et al.*, Case No. 11-4221-CV-CA-NKL (W.D. Mo., Dec. 21, 2011); Order, *BellSouth Telecommc'ns, LLC v. Halo Wireless, Inc.*, Case No. 2:11-CV-758-WKW (M.D. Ala. Jan. 26, 2012); Order Granting Motion to Remand, *BellSouth Telecommc'ns, LLC v. Halo Wireless, Inc.*, C/A No. 11-80162-dd (Bankr. D. S.C., Nov. 30, 2011); Order, *BellSouth Telecommunications, LLC v. Halo Wireless, Inc.*, Civil Action No. 3:11cv579-DPJ (S.D. Miss. March 16, 2012); Order of Remand, *Riviera Telephone Co. v. Halo Wireless, Inc.* Cause No. A-11-CV-730-LY (W.D. Tex. Feb. 15, 2012) (also, six substantively identical W.D. Tex. remand orders in complaint cases brought against Halo by other carriers); Memorandum Opinion and Order, *In re: Halo Wireless, Inc., et al.*, Case No. 11-42464-btr-11, et al. (E.D. KY April 9, 2012).

⁶ Order Denying Motion to Dismiss, *BellSouth Telecommc's, LLC v. Halo Wireless, Inc.*, Docket No. 11-00119 (Tenn. Reg. Auth., Dec. 16, 2011) (Exhibit "D" hereto); Order, *BellSouth Telecommc's, LLC v. Halo Wireless, Inc.*, Docket No. 11-00119 (Tenn. Reg. Auth., Jan. 26, 2011, pp. 3-6) (Attached as Exhibit 3 to Alma, Choctaw and MoKan Dial's April 5, 2012 Response to Halo Request for Stay, "TRA Jan. 26, 2012 Order"); Order Denying Motions to Dismiss in Part With Prejudice and in Part Without Prejudice, *Investigation into Practices of Halo Wireless, Inc. and Transcom Enhanced Services, Inc.*, No. 9594-TI-11 (Pub. Serv. Comm'n Wis., Jan. 10, 2012) (Exhibit E hereto); Commission Directive, *BellSouth Telecommunications, LLC v. Halo Wireless, Inc., for Breach of the Parties' Interconnection Agreement* (Pub. Serv. Comm'n So. Car. Feb. 15, 2012) (Exhibit F); Order Denying Halo Wireless, Inc.'s Partial Motion to Dismiss, *Complaint and Petition for Relief against Halo Wireless, Inc. for Breaching the Terms of the Wireless Interconnection Agreement, by BellSouth Telecommunications, LLC* (Fla. Pub. Serv. Comm'n March 20, 2012) (Exhibit G).

⁷ 4 CSR Sections 240-29.120 and 240-29.130.

⁸ TRA Jan. 26, 2012 Order at p. 22.

⁹ Order Denying Plaintiff's Request for Emergency Injunctive Relief, *In re: Halo Wireless, Inc.*, Case No. 11-42464 (Bankr. E.D. Tex., February 6, 2012) (attached as Exhibit 5 to Alma, Choctaw and MoKan Dial's April 5, 2012 Response to Halo Request for Stay).

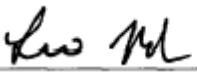
Here, it is obvious that delay is the sole purpose of Halo's request for a stay. Halo essentially asks the Commission to do nothing until the bankruptcy court does something -- but Halo has not asked the bankruptcy court to do anything. As Halo purposely did not request any relief from the bankruptcy court,¹⁰ it is highly unlikely that the court will act on the notice alone.

If Halo genuinely believed AT&T or any of the other Missouri LECs violated the stay, the proper filing would have been either (a) a motion to show cause why AT&T and the other Missouri LECs should not be held in contempt (because a stay violation is contempt of court), or (b) a complaint seeking injunctive relief (similar to what Halo did after AT&T in Tennessee discontinued service in the wake of the TRA order). Although Halo included a reservation of rights in its notice filed with the bankruptcy court, its failure to request any specific relief from the bankruptcy court demonstrates that Halo knows that AT&T and the other Missouri LECs took no action whatsoever in violation of the automatic stay or the bankruptcy court's section 362(b)(4) order.

WHEREFORE, AT&T respectfully requests the Commission to issue an order denying Halo's request for a stay and directing this case to proceed.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY,
D/B/A AT&T MISSOURI

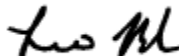
BY 
JEFFREY E. LEWIS #62389
LEO J. BUB #34326
ROBERT J. GRYZMALA #32454

Attorneys for AT&T
909 Chestnut Street, Room 3518
St. Louis, Missouri 63101
314-235-2508 (Telephone)\314-247-0014(Facsimile)
leo.bub@att.com

¹⁰ Notice of Violation of Automatic Stay, *In re: Halo Wireless, Inc.*, Case No. 11-42464, filed by Halo on April 3, 2012 in the United States Bankruptcy Court for the Eastern District of Texas (attached as Exhibit 1 to Alma, Choctaw and MoKan Dial's April 2012 Response to Halo Request for Stay).

CERTIFICATE OF SERVICE

Copies of this document were served on the following parties by e-mail on April 9, 2012.



Leo J. Bub

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

Louis A Huber, III
Daniel R. Young
Schlee, Huber, McMullen & Krause, P.C.
4050 Pennsylvania, Suite 300
P.O. Box 32430
Kansas City, MO 64171
lhuber@schleehuber.com

William R. England III
Brian McCartney
Brydon Swearengen & England
312 E. Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102
trip@brydonlaw.com
bmccartney@brydonlaw.com

Public Counsel
Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

Craig S. Johnson
Johnson & Sporleder, LLP
304 E. High Street, Suite 200
P.O. Box 1670
Jefferson City, MO 65102
cj@cjaslaw.com