

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BALLARD RURAL TELEPHONE)
COOPERATIVE CORPORATION, INC., ET AL.)

COMPLAINANTS)

V.)

BELLSOUTH TELECOMMUNICATIONS, INC.)
D/B/A AT&T KENTUCKY)

DEFENDANT)

CASE NO.
2011-00199

AND)

BELLSOUTH TELECOMMUNICATIONS, INC.)
D/B/A AT&T KENTUCKY)

THIRD PARTY COMPLAINANT)

V.)

HALO WIRELESS, INC)

THIRD PARTY DEFENDANT)

ORDER

On May 24, 2011, several Rural Local Exchange Carriers¹ filed a formal complaint against BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T

¹ Ballard Rural Telephone Cooperative Corporation, Inc., Brandenburg Telephone Company, Duo County Telephone Cooperative Corporation, Inc., Foothills Rural Telephone Cooperative, Inc., Gearhart Communications Co., Inc., Highland Telephone Cooperative, Inc., Logan Telephone Cooperative, Inc., Mountain Rural Telephone Cooperative, Inc., North Central Telephone Cooperative Corporation, Peoples Rural Telephone Cooperative, Inc., South Central Rural Telephone Cooperative Corporation, Inc., Thacker-Grigsby Telephone Company, Inc., and West Kentucky Rural Telephone Cooperative Corporation, Inc. (collectively the "RLECs").

Kentucky”). AT&T Kentucky was ordered to satisfy or answer the matters complained of. AT&T Kentucky filed its answer on July 15, 2011. On July 19, 2011, AT&T filed a motion for leave to file a third-party complaint against Halo Wireless, Inc. (“Halo”), which the Commission granted by Order on August 8, 2011 and joined Halo as a third-party defendant. AT&T Kentucky also filed a separate complaint against Halo, which was established as a separate case.² Bluegrass Telephone Company, Inc. d/b/a Kentucky Telephone Company (“KTC”) filed a motion for limited intervention, which the Commission granted by Order on August 5, 2011.

On August 8, 2011, Halo filed a voluntary petition for bankruptcy pursuant to 11 U.S.C. § 1101 *et seq.* in the United States Bankruptcy Court for the Eastern District of Texas. On September 14, 2011, Halo filed a Notice that it had removed the case to the United States District Court for the Eastern District of Kentucky. Halo also notified the Commission that under 28 U.S.C. § 1452, no further action could be taken in the administrative case without leave of the Court.

The Commission, AT&T Kentucky, and the RLECs filed motions to remand with the District Court, alleging that the automatic stay did not extend to administrative agencies. On April 9, 2012, the District Court remanded the case back to the Commission. The parties to this case agreed that the Commission should resolve Case No. 2011-00283 prior to addressing this case. On July 19, 2012, the Bankruptcy Court converted Halo’s bankruptcy filing from a Chapter 11 reorganization to a Chapter 7 dissolution, and named a trustee to manage the wind down. The court-appointed trustee terminated all of Halo’s business operations in Kentucky on July 19, 2012 and

² Case No. 2011-00283, *BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky v. Halo Wireless, Inc.* (Ky. PSC Jan. 7, 2013.)

AT&T Kentucky disconnected all of its trunks to Halo. On January 7, 2013 the Commission issued a final Order in Case No. 2011-00283 finding that, *inter alia*, Halo was responsible to AT&T Kentucky for access charges for the landline calls that Halo had sent to AT&T Kentucky customers.

On February 15, 2013, the parties and Commission Staff participated in an informal conference in which the parties agreed to engage in negotiations to narrow the types of traffic that are the subject of this complaint. On April 5, 2013, the parties filed a joint status report wherein both parties stated their desire to establish a procedural schedule, but differed on the timing of the procedural schedules. AT&T Kentucky proposed a procedural schedule that allowed an additional 60 days for settlement discussions. The RLECs proposed a procedural schedule that allowed for a shorter amount of time for settlement negotiations. On April 5, 2013, the RLECs filed a motion for a procedural schedule, to which AT&T Kentucky filed a response on April 16, 2013. Although the proposed schedules differed on proposed dates, both parties proposed that any documents filed be filed electronically.

The Commission finds that, because the parties have been unable to reach a settlement in this case, a procedural schedule should be established to reach a resolution.

KTC, when it intervened, was granted limited intervention. The Commission, however, promulgated new regulations which became effective on January 4, 2013. The new regulation, 807 KAR 5:001, Section 4(11), provides only for full intervention.

Because the right to limited intervention no longer exists, the Commission finds that KTC should be granted full intervention in this case and made a full party. The Commission also finds that any party to the case should have an opportunity to object to KTC's being made a full party.

Based on the foregoing, IT IS THEREFORE ORDERED that:

1. The procedural schedule set forth in the Appendix to this Order shall be followed in this proceeding.

2. Any party who submits a motion to intervene after September 11, 2013 and, upon a showing of good cause, is granted full intervention shall accept and abide by the existing procedural schedule.

3. a. All requests for information and responses thereto shall be appropriately bound, tabbed, and indexed and the original and ten copies shall be filed with the Commission, with copies to all parties of record. Any request for information by letter from the Commission Staff shall be responded to as if set forth in a Commission Order. All responses shall include the name of the witness responsible for responding to questions related to the information provided.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or an association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

4. Any party filing testimony shall file an original and ten copies with the Commission, with copies to all parties of record.

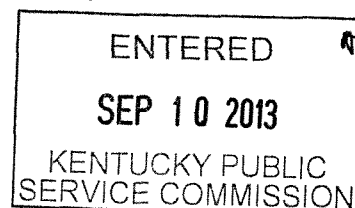
5. At any public hearing in this matter, neither opening statements nor summarization of direct testimony shall be permitted.

6.. Any objections or motions relating to discovery or procedural dates shall be filed within four business days' notice or the filing party shall explain, in writing, why such notice was not possible.

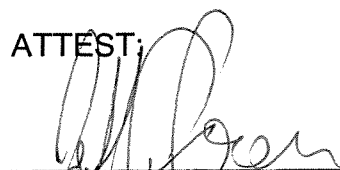
7. Motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

8. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00199 DATED **SEP 10 2013**

- Requests for Intervention shall be filed no later than 09/16/2013
- Objections to KTC's being granted full intervention
shall be filed no later than..... 09/20/2013
- Initial requests for information shall be filed no later than 09/30/2013
- Reponses to initial requests for information
shall be filed no later than 10/18/2013
- Simultaneous direct testimony in verified form
shall be filed no later than 11/15/2013
- Supplemental requests for information shall
be filed no later than 12/02/2013
- Responses to supplemental requests for information
shall be filed no later than 12/20/2013
- Simultaneous rebuttal testimony in verified form
shall be filed no later than 01/17/2014
- Public Hearing will be held at the
Commission's offices in Frankfort, Kentucky,
beginning at 10:00 a.m. Eastern Standard Time, on 02/04/2014
- Simultaneous post hearing briefs shall be filed no later than 03/04/1014
- Simultaneous post-hearing reply briefs
shall be filed no later than 03/18/2014

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