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December 11, 2012

VIA OVERNIGHT MAIL

Mr. Jeff Derouen
Executive Director
Public Service Commission
211 Sower Boulevard
P. O. Box 615
Frankfort, KY 40602

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PUBLIC SERVICE
COMMISSION

Re: BellSouth Telecommunications, LLC, d/b/a AT&T
Kentucky, Complainant v. Halo Wireless, Inc., Defendant
PSC 2011-00283

Dear Mr. Derouen:

Enclosed for filing in the above-referenced case are the original and ten (10) copies of Unopposed Motion to Enter Consent Order.

Please let me know if you have any questions.

Sincerely,

Mary K. Keyer

Enclosures

cc: Parties of Record

1051827

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:)	
)	
BELLSOUTH TELECOMMUNICATIONS,)	
LLC d/b/a AT&T KENTUCKY,)	
)	
)	
Complainant,)	
)	Case No. 2011-00283
v.)	
)	
HALO WIRELESS, INC.,)	
)	
Defendant.)	

UNOPPOSED MOTION TO ENTER CONSENT ORDER

BellSouth Telecommunications, LLC d/b/a AT&T Kentucky (“AT&T” or “AT&T Kentucky”) hereby requests that the Public Service Commission of Kentucky (“Commission”) approve and enter the attached Consent Order to resolve and conclude AT&T Kentucky’s Complaint against Halo in Case No. 2011-00283. In support of this motion, AT&T Kentucky states as follows:

1. AT&T’s Complaint alleged that Halo Wireless, Inc. (“Halo”) breached its interconnection agreement (“ICA”) with AT&T by (i) sending landline-originated traffic to AT&T, (ii) sending inaccurate call information to AT&T, and (iii) refusing to pay for interconnection facilities provided by AT&T. The relief that AT&T requested for the alleged breaches included authorization to discontinue service to Halo and to stop performing under the ICA, as well as a finding by the Commission, without determining any specific amount due, that Halo is liable to AT&T for access charges on the non-local landline-originated traffic Halo sent

to AT&T for termination to its end user customers and for the unpaid interconnection facilities charges.

2. AT&T incumbent local exchange carriers (“ILECs”) in other states filed substantially identical claims against Halo with the state commissions in those states. The state commissions in Tennessee, South Carolina, Georgia, Wisconsin, Missouri, North Carolina, Louisiana, Illinois and Florida have ruled on the claims by AT&T ILECs against Halo in those states, and all have ruled in favor of the AT&T ILECs.¹ In addition, the state commissions in which AT&T ILECs asserted claims for unpaid interconnection facility charges, like AT&T’s claim here, sustained those claims.²

3. On July 19, 2012, Halo’s Chapter 11 bankruptcy reorganization proceeding in the Eastern District of Texas Bankruptcy Court was converted to a Chapter 7 liquidation proceeding. Shortly thereafter, the Bankruptcy Court appointed Linda Payne as the Chapter 7 trustee (the “Trustee”) for the Halo estate, and the Trustee terminated all of Halo’s business operations

¹ Order, *BellSouth Telecomms. LLC d/b/a AT&T Tennessee v. Halo Wireless, Inc.*, Docket No. 11-00119 (Tenn. Reg. Auth. Jan. 26, 2012) (“*Tennessee Halo Order*”); Order Granting Relief against Halo Wireless, *Complaint and Petition for Relief of BellSouth Telecomms. LLC d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Halo Wireless, Inc.*, Docket No. 2011-304-C (Pub. Serv. Comm. S.C., July 17, 2012) (“*South Carolina Halo Order*”); Order on Complaints, *Complaint of TDS Telecom on behalf of its Subsidiaries against Halo Wireless, Inc. Transcom Enhanced Servs., Inc. and Other Affiliates for Failure to Pay Terminating Intrastate Access Charges for Traffic and for Expedited Declaratory Relief and Authority to Cease Termination of Traffic*, Docket No. 34219 (Ga. Pub. Serv. Comm’n July 17, 2012) (“*Georgia Halo Order*”); Final Decision, *Investigation into Practices of Halo Wireless, Inc., and Transcom Enhanced Services, Inc.*, No. 9594-TI-100 (Pub. Serv. Comm’n of Wis., July 27, 2012) (“*Wisconsin Halo Order*”); Report and Order, *Halo Wireless, Inc. v. Craw-Kan Telephone Cooperative, et al.*, File No. TC-2012-0331 (Pub. Serv. Comm’n of Missouri, Aug. 1, 2012) (“*Missouri Halo Order*”); Order Granting Relief, *BellSouth Telecommunications, Inc. v. Halo Wireless, Inc.*, Docket No. P-55, Sub 1841 (N.C. Utils. Comm’n, Sept. 27, 2012) (“*North Carolina Halo Order*”); *Illinois Bell Tel. Co. and Halo Wireless, Inc.*, Docket No. 12-0182 (Ill. Comm. Comm’n, Oct. 24, 2012) (“*Illinois Halo Order*”); Vote Sheet, *Complaint and Petition for Relief against Halo Wireless, Inc. for Breaching the Terms of the Wireless Interconnection Agreement, by BellSouth Telecommunications, LLC d/b/a AT&T Florida* (Docket No. 11-0234-TP (Fla. Pub Serv. Comm. Oct. 4, 2012) (*Florida Halo Order*). The Louisiana Public Service Commission has voted in favor of AT&T Louisiana but not yet released its final written decision..

² See *Tennessee Halo Order*, *Georgia Halo Order*, *South Carolina Halo Order*, *North Carolina Halo Order* and *Florida Halo Order*.

effective on July 19, 2012. AT&T Kentucky, pursuant to the Trustee's request, disconnected all of its trunks to Halo on or before August 1, 2012.

4. In this case, the parties filed their written direct and rebuttal testimony on June 15, 2012, and July 10, 2012, respectively. The evidentiary hearing scheduled for July 18, 2012, was cancelled at the parties' request.

5. To avoid unnecessary litigation costs and in the interest of administrative efficiency, AT&T Kentucky seeks to conclude this case between Halo and AT&T Kentucky by asking the Commission to enter the attached Consent Order as soon as reasonably practicable. Based on the rulings of multiple other state commissions in substantially identical cases, and on her determination that a continuation of this matter is of no benefit to the estate, the Trustee consents to the attached Consent Order.

WHEREFORE, AT&T Kentucky and the Trustee jointly request that the Commission enter the attached Consent Order.

Respectfully submitted this 11 day of ^{December} ~~November~~, 2012.


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BELLSOUTH TELECOMMUNICATIONS, LLC, d/b/a
AT&T KENTUCKY

CONSENTED TO: -

By: 

Linda S. Payne

Chapter 7 Bankruptcy Trustee for Halo

12770 Coit Road, Suite 541

Dallas, TX 75251

972 628 3695

linda@paynetrustee.com

HALO WIRELESS, INC.


CERTIFICATE OF SERVICE – PSC 2011-00283

I hereby certify that a copy of the foregoing was served on the following individuals by mailing a copy thereof via U.S. Mail, this 11th day of December 2012.

Russell Wiseman
President & CEO
Halo Wireless, Inc.
2351 West Northwest Hwy., Suite 1204
Dallas, TX 75220

Steven H. Thomas
Troy P. Majoue
Jennifer M. Larson
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269 W. Main Street, Suite 600
Lexington, KY 40507-1759



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Defendant.)	

CONSENT ORDER

BellSouth Telecommunications, LLC d/b/a AT&T Kentucky (“AT&T” or “AT&T Kentucky”) and the Chapter 7 bankruptcy trustee (“Trustee”) for Halo Wireless, Inc. (“Halo”) jointly moved the Commission to resolve AT&T Kentucky’s Complaint against Halo by entering this consent order in light of the Unopposed Motion to Enter Consent Order. The Commission finds that the motion is well-taken and for good reason should be granted.

The Commission finds, as stipulated by the parties, that Halo has materially breached the ICA by: (1) sending landline-originated traffic to AT&T Kentucky, (2) inserting incorrect charge number (“CN”) information on calls; and (3) failing to pay for facilities it has ordered pursuant to the ICA and, having been sufficiently advised,

IT IS HEREBY ORDERED that:

- (a) As a result of these breaches, AT&T Kentucky is excused from further performance under the ICA;

- (b) Consistent with this Commission's previous holdings that the calling party is responsible for paying the terminating company's traffic termination charges¹ and without this Commission quantifying any specific amount due, Halo is liable to the terminating carrier for access charges on the non-local landline-originated traffic Halo has sent to AT&T Kentucky for termination to Kentucky end user customers,
- (c) Without this Commission quantifying any specific amount due, Halo is liable to AT&T Kentucky for interconnection facilities charges that it has refused to pay to AT&T Kentucky; and
- (d) Case No. 2011-00283 is now closed and shall be removed from the Commission's Docket.

By the Commission

ATTEST:

Executive Director

¹ This Commission has long applied the principle that the "calling party's network pays." Case No. 2000-00404, *The Petition of Level 3 Communications, LLC for Arbitration with BellSouth Telecommunications, Inc., Pursuant to Section 252(b) of the Communications Act of 1934, As Amended by the Telecommunications Act of 1996* (Ky. PSC Mar. 14, 2001).