

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 Kentucky filed its answer on July 15, 2011. On July 19, 2011, AT&T filed a motion for

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").

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 September 10, 2013, the Commission, by Order, established a procedural schedule. In that Order, the Commission also noted that subsequent to the time at which it had granted KTC limited intervention, the Commission regulations for intervention had changed, eliminating the right to limited intervention and allowing only full intervention. The Commission found that KTC should be granted full intervention in the case, but also provided any party to the case an opportunity to object to KTC’s being made a full party.

AT&T Kentucky filed its objection to KTC’s being made a full party. In its objection, AT&T Kentucky argued that KTC’s participation as a party would unduly complicate and disrupt the proceeding. As grounds for its objection, AT&T Kentucky states that KTC and the RLECs have different interests and would present different issues. Specifically, AT&T Kentucky states that the RLECs are directly connected to AT&T Kentucky and the RLECs seek payment for terminating traffic that originated with non-party Halo. KTC is directly connected to Windstream Kentucky East, LLC (“Windstream”), from which KTC receives its traffic, and is not directly connected to AT&T Kentucky. AT&T Kentucky asserts that if KTC seeks payment for access charges from AT&T Kentucky, it would necessitate making Windstream a party to this

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

proceeding. AT&T Kentucky argues that would unduly complicate the proceeding because it would require extra discovery, testimony, and briefing.

AT&T Kentucky also asserts that the RLECs cite to and rely on the Kentucky Restructured Settlement Plan ("KRSP") to support their claim against AT&T Kentucky. KTC is not a party to the KRSP, and AT&T Kentucky argues that KTC would not add anything to the analysis of the KRSP, as it affects the issues raised by the RLECs and may present new and different issues.

AT&T Kentucky states that KTC's primary concern is how AT&T Kentucky has routed traffic destined for a KTC end-user, whereas the RLECs' claims do not pertain to how AT&T Kentucky routed the traffic from Halo. AT&T Kentucky argues that this raises new and different issues not raised in the RLECs complaint. AT&T Kentucky also states that if KTC thought full intervention was necessary to protect its interests, it should have sought full intervention in 2011. AT&T Kentucky concludes that KTC can still monitor the case and file written comments.

KTC asserts that its participation will not unduly disrupt or complicate the proceeding. KTC argues that AT&T Kentucky harmed it in the same way in which AT&T Kentucky harmed the RLECs in that AT&T Kentucky sent traffic for termination under access arrangements but did not pay for it. KTC claims that it seeks payment from AT&T Kentucky for the same type of terminating interexchange traffic that AT&T Kentucky terminated to the RLECs over access trunks. KTC argues that AT&T Kentucky sent this traffic over local traffic trunks between Windstream and AT&T Kentucky when the traffic should have been routed over interexchange facilities. KTC claims that the issue it seeks to resolve is similar to that of the RLECs, namely, AT&T

Kentucky's liability for toll and interexchange traffic it routed or allegedly misrouted to the RLECs and KTC. KTC argues that full intervention will allow the Commission to further examine this issue.

The Commission finds that KTC's issues and facts presented in support of full intervention are sufficiently different than those posed by the RLECs that KTC's full participation in this matter will unduly complicate this proceeding. Although the type of traffic that is at issue may be of similar nature, the specific traffic of which the RLECs complained was traffic that Halo delivered to them via AT&T Kentucky. This traffic was also the subject of a dispute between Halo and AT&T Kentucky in Case No. 2011-00283, which the Commission resolved in AT&T Kentucky's favor. The issue now before the Commission in this case is what compensation, if any, is due the RLECs from AT&T Kentucky for the Halo traffic delivered over access trunks. The Halo traffic was unique in nature due to the steps that Halo took to mask interexchange traffic as local traffic, which has led to this dispute. KTC does not claim that the Halo traffic is at issue; it only makes generic claims regarding improper traffic routing practices of AT&T Kentucky. Allowing KTC to become a full party to this case would expand the issues beyond those presented by the RLECs and unnecessarily delay and complicate this proceeding. If KTC has a specific complaint against AT&T Kentucky it may bring a formal complaint against AT&T Kentucky in a separate proceeding.

Based on the foregoing, IT IS HEREBY ORDERED that:

1. KTC is dismissed as a party to this proceeding.
2. The amended procedural schedule set forth in the Appendix to this Order shall be followed in this proceeding.

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.

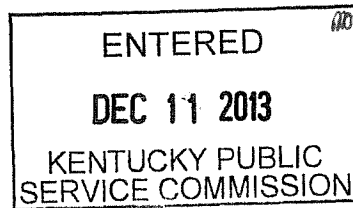
5. At any public hearing in this matter, neither opening statements nor summarization of direct testimony shall be permitted.

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 DEC 11 2013

Reponses to initial requests for information
shall be filed no later than 12/20/2013

Simultaneous direct testimony in verified form
shall be filed no later than 1/07/2014

Supplemental requests for information shall
be filed no later than..... 1/10/2014

Responses to supplemental requests for information
shall be filed no later than 1/20/2014

Simultaneous rebuttal testimony in verified form
shall be filed no later than 01/30/2014

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

Honorable Douglas F Brent
Attorney at Law
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KENTUCKY 40202-2828

Honorable Mark R Overstreet
Attorney at Law
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

Linda Payne
Chapter 7 Bankruptcy Trustee
Halo Wireless, Inc
12770 Colt Road, Suite 541
Dallas, TEXAS 75251

Honorable John E Selent
Attorney at Law
Dinsmore & Shohl, LLP
101 South Fifth Street
Suite 2500
Louisville, KENTUCKY 40202

Tony A Taylor
Executive Director - Regulatory
BellSouth Telecommunications, LLC dba AT&T
601 W Chestnut Street
4th Floor East
Louisville, KY 40203