

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

December 19, 2011

IN RE:

**COMPLAINT OF CONCORD TELEPHONE
EXCHANGE, INC., HUMPHREYS COUNTY
TELEPHONE CO., TELLICO TELEPHONE
COMPANY, TENNESSEE TELEPHONE COMPANY,
CROCKETT TELEPHONE COMPANY, INC., PEOPLES
TELEPHONE COMPANY, WEST TENNESSEE
TELEPHONE COMPANY, INC., NORTH CENTRAL
TELEPHONE COOP., INC. AND HIGHLAND
TELEPHONE COOPERATIVE, INC. AGAINST HALO
WIRELESS, LLC, TRANSCOM ENHANCED
SERVICES, INC. AND OTHER AFFILIATES FOR
FAILURE TO PAY TERMINATING INTRASTATE
ACCESS CHARGES FOR TRAFFIC AND OTHER
RELIEF AND AUTHORITY TO CEASE
TERMINATION OF TRAFFIC**

**DOCKET NO.
11-00108**

**ORDER DENYING THE MOTION TO ABATE, CONVENING A CONTESTED CASE
AND APPOINTING A HEARING OFFICER**

This matter came before the Tennessee Regulatory Authority (the "Authority" or "TRA") at a regularly scheduled Authority Conference held on November 21, 2011 upon the filing of a *Complaint* by Concord Telephone Exchange, Inc., Humphrey's County Telephone Co., Tellico Telephone Company, Tennessee Telephone Company, Crockett Telephone Company, Inc., Peoples Telephone Company, Inc., West Tennessee Telephone Company, Inc., North Central Telephone Co-Op., Inc. and Highland Telephone Cooperative, Inc. (collectively, the "Complainants") against Halo Wireless, LLC ("Halo Wireless"), Transcom Enhanced Services, Inc. ("Transcom") and other affiliates on July 7, 2011. The Complainants allege that Halo Wireless is failing to pay applicable access charges on predominantly toll traffic, including both wireline long distance and wireless InterMTA traffic, delivered to the Complainants through common trunk groups each maintains with the AT&T

tandems.¹ The Complainants further allege that Transcom caused or assisted Halo Wireless in misrepresenting the traffic delivered to them to avoid the tariff rates contained in the Complainants' intrastate access tariffs.²

On August 5, 2011, Halo Wireless filed a Motion to Dismiss the *Complaint* based upon its assertion that the Authority "lacks jurisdiction over the subject matter and over the person of Halo..."³

On August 10, 2011, Halo Wireless filed a *Suggestion of Bankruptcy* with the Authority, giving notice that it has filed a voluntary petition for Chapter 11 relief in the United States Bankruptcy court for the Eastern District of Texas ("Bankruptcy Court").⁴ In its filing, Halo Wireless asserted that, pursuant to the provisions of 11 U.S.C. § 362, there was an automatic stay in place thereby prohibiting any further actions to be taken.⁵ On August 16, 2011, the Complainants filed a notice with the Authority that, due to the filing in Bankruptcy Court and the resulting stay of administrative action, they were prohibited from filing a response to Halo Wireless' Motion to Dismiss.⁶

On August 19, 2011, Halo Wireless filed a Notice with the Authority that this docket had been removed to the United States District Court, Middle District of Tennessee, Nashville Division ("District Court").⁷ Transcom joined with Halo Wireless in the removal.⁸

On November 10, 2011, the Complainants filed a letter notifying the Authority that this matter can now be considered by the TRA.⁹ Attached to the notice were copies of the Orders of the District Court remanding the case back to the TRA and the Bankruptcy Court partially lifting the

¹ *Complaint*, p. 8 (July 7, 2011). "Halo Wireless obtained access and connectivity to AT&T and, hence, indirectly to the [Complainants], by adoption of an interconnection agreement previously approved between BellSouth and T-Mobile, which adoption was approved by the TRA in Docket No. 10-00063 by Order dated June, 21, 2010." *Id.*

² *Id.* at 15.

³ *Motion to Dismiss*, p. 1 (August 5, 2011).

⁴ *Suggestion of Bankruptcy*, p. 1 (August 10, 2011).

⁵ *Id.* at 2.

⁶ Letter from H. LaDon Baltimore and Norman J. Kennard to Chairman Eddie Roberson (August 16, 2011).

⁷ *Notice of Removal to Federal Court* (August 19, 2011).

⁸ *Notice of Removal to Federal Court*, Exhibit A, ¶ 17 (August 19, 2011).

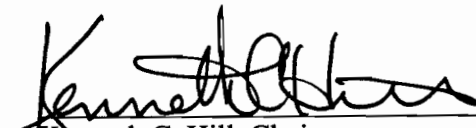
⁹ Letter from H. LaDon Baltimore and Norman J. Kennard to Chairman Kenneth C. Hill (November 10, 2011).

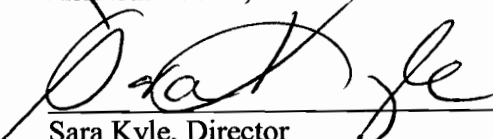
automatic stay.¹⁰ The Complainants requested that this matter be placed on the November 21, 2011 Authority Conference for appointment of a Hearing Officer.¹¹

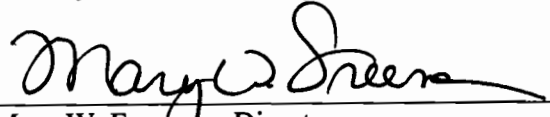
Halo Wireless filed a *Motion to Abate* on November 17, 2011. In the *Motion to Abate*, Halo Wireless states its opinion that the District Court and Bankruptcy Court erred in their respective analyses.¹² Halo Wireless further states that it is seeking a stay with the District Court pending appeal and may seek a stay with the Fifth Circuit Court of Appeals pending its appeal to that Court.¹³ Halo Wireless asserts that “the most prudent and judicially efficient action for the TRA to take is to simply refrain from acting until the Eastern District of Texas and the Fifth Circuit Court of Appeals have had an opportunity to consider Halo’s motions to stay.”¹⁴

During the regularly scheduled Authority Conference held on November 21, 2011, the panel found that this docket was properly before the Authority for continued action and, therefore, voted unanimously to deny the *Motion to Abate*, to convene a contested case proceeding and to appoint Chairman Kenneth C. Hill to act as Hearing Officer to handle any preliminary matters, including entering a protective order, ruling on any intervention requests, setting a procedural schedule and addressing any other preliminary issues.

IT IS SO ORDERED.


Kenneth C. Hill, Chairman


Sara Kyle, Director


Mary W. Freeman, Director

¹⁰ *Id.*

¹¹ *Id.*

¹² *Motion to Abate*, pp. 3-4 (November 17, 2011).

¹³ *Id.* at 4.

¹⁴ *Id.*