

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 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. 110234-TP
ORDER NO. PSC-11-0576-PCO-TP
ISSUED: December 16, 2011

ORDER RESUMING DOCKET

On July 25, 2011, BellSouth Telecommunications, LLC d/b/a AT&T Florida (“AT&T”) filed a Complaint and Petition for Relief (“Complaint”) against Halo Wireless, Inc. (“Halo”). In the Complaint, AT&T alleges that Halo has breached the terms of the parties’ Interconnection Agreement, by terminating traffic to AT&T’s network which did not originate on a wireless network, which breach had the effect of depriving AT&T of access charges due from Halo. AT&T seeks relief in two parts: first, that the Commission terminate the parties’ Interconnection Agreement; then second, determine what amount of money is owed to AT&T.

On August 12, 2011, AT&T informed the Commission that Halo had filed for Chapter 11 Bankruptcy protection in the Eastern District of Texas. On August 16, 2011, Halo filed a Suggestion of Bankruptcy, Notice of Stay, and Notice of Extensions. In this filing, Halo asserted that by virtue of its bankruptcy filing, it was entitled to an automatic stay, the effect of which is to prohibit any further action in this proceeding until such time as the bankruptcy court determines otherwise. On September 20, 2011, Halo filed for Removal of this matter from the Commission to the United States District Court for the Northern District of Florida (“District Court”). Halo also sought transfer of the District Court proceeding to the Bankruptcy Court in Texas. AT&T opposed removal and transfer, and sought the District Court’s remand of the proceedings back to the Commission.

On December 9, 2011, the District Court issued an Order of Remand, which AT&T filed with the Commission on December 12, 2011. In its Order, the District Court denied Halo’s Motion to Transfer, Granted AT&T’s Motion to Remand, and remanded this proceeding back to the Commission. In the Order, the District Court found that, in addition to remand being appropriate in this circumstance, the Bankruptcy Court in Texas specifically determined that “pending proceedings against Halo in state public utility commissions – but not any attempts to collect any amount determined to be due – are exempt from the automatic stay.”¹

Given the findings of the District Court, as well as the Order of Remand, I find it is appropriate to resume this proceeding without additional delay. Therefore, in accord with the Commission’s usual practice, Halo Wireless shall be given twenty (20) days from the date of this Order in which it may file a Response to the Complaint. Further, at such future time as may be arranged, the parties and staff are directed to conduct an Issue Identification/Procedural meeting

¹ Order of Remand, Page 10, citing Case No. 11-42464, Hearing Transcript 107, 111-112, October 7, 2011; ECF No. 14-1 at 109 & 113-114 of 117.

DOCUMENT NUMBER DATE

08997 DEC 16 =

FPSC-COMMISSION CLERK

for the purpose of identifying tentative issues and discussing a procedural schedule for this proceeding.

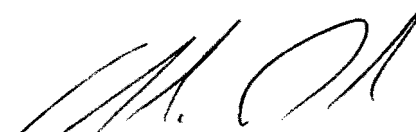
Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that Docket No. 110234-TP shall be immediately resumed. It is further

ORDERED that Halo Wireless, LLC shall have twenty (20) days from the issuance of this Order in which it may file its response to AT&T's Complaint. It is further

ORDERED that the parties and staff are directed to meet to identify tentative issues in this proceeding, as well as develop a procedural schedule to govern this proceeding.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 16th day of December, 2011.



EDUARDO E. BALBIS
Commissioner and Prehearing Officer
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

LDH

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

ORDER NO. PSC-11-0576-PCO-TP

DOCKET NO. 110234-TP

PAGE 3

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.