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-12-0593-FOF-TP ISSUED: October 31, 2012

The following Commissioners participated in the disposition of this matter:

ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

FINAL ORDER AUTHORIZING AT&T FLORIDA TO DISCONTINUE PERFORMANCE AND TERMINATE INTERCONNECTION AGREEMENT AND DETERMINING LIABILITY FOR ACCESS CHARGES FROM HALO WIRELESS

BY THE COMMISSION:

BACKGROUND

On July 25, 2011, BellSouth Telecommunications, LLC d/b/a AT&T Florida ("AT&T Florida") filed a Complaint and Petition for Relief ("Complaint") against Halo Wireless, Inc. ("Halo"). AT&T Florida is a certificated Incumbent Local Exchange Carrier in Florida. Halo is an FCC-licensed Commercial Mobile Radio Service wireless provider with facilities in Florida. Transcom Enhanced Services, Inc. (Transcom) is an unregulated business entity providing communications services and is Halo's sole customer.[1]

In the Complaint, AT&T Florida alleges that Halo has violated the terms of the parties' interconnection agreement ("ICA") by terminating traffic to AT&T Florida which was not originated on a wireless network, in order to avoid the payment of access charges. On August 8, 2011, Halo filed for Chapter 11 Bankruptcy Protection in the United States Bankruptcy Court for the Eastern District of Texas. On September 14, 2011, Halo filed a Notice of Removal with the District Court in Tallahassee, in which Halo sought to remove the pending Commission proceeding to the United States District Court for the Northern District of Florida. On December 9, 2011, the District Court issued its Order of Remand, whereby the District Court remanded this matter back to the Commission for further proceedings. In its Order, the District Court noted that the Bankruptcy Court had specifically ruled "that the pending proceedings against Halo in state public utility commissions – but not any attempts to collect any amount determined to be

[1] Halo stated that Transcom is a high volume customer who purchases telephone exchange services from Halo. In the direct testimony of Robert Johnson, Mr. Johnson further identifies Transcom as a business end-user customer that purchases wireless-based telephone exchange services from Halo. Halo also asserts that all of the call traffic that Halo delivers to AT&T for final termination is initially received from Transcom.

due – are exempt from the [bankruptcy] automatic stay." Substantially similar complaints have been filed in at least 10 other states, with almost identical procedural schedules and pre-hearing matters. To date, at least 5 other states, Tennessee,[2] Wisconsin,[3] South Carolina,[4] Georgia,[5] and Missouri[6] have issued final orders, all finding in favor of AT&T.

Following the District Court's Order, on December 16, 2011, this Commission issued Order No. PSC-11-0506-PCO-TP, Order Resuming Docket. On January 5, 2012, Halo filed a Partial Motion to Dismiss and Answer to AT&T Florida's Complaint. On March 20, 2012, the Commission issued Order No. PSC-12-0129-FOF-TP, denying Halo's partial motion to dismiss AT&T Florida's complaint as to Counts I and II and directing this matter to be set for evidentiary hearing. On April 13, 2012, Order PSC-12-0202-PCO-TP, the Order Establishing Procedure, was issued. A Prehearing Conference was held June 20, 2012, and a Prehearing Order,[7] setting forth 9 issues for the Commission's decision, was subsequently issued. An evidentiary hearing was held July 12, 2012.

Subsequent to the hearing, on July 19, 2012, the Bankruptcy Court converted the case from a Chapter 11 reorganization case to a Chapter 7 liquidation,[8] and a bankruptcy Trustee has been appointed for Halo. On July 25, 2012, the Trustee requested that AT&T disconnect Halo in all states in which AT&T was providing service, and the disconnection process was completed August 1, 2012. Accordingly, AT&T is no longer receiving traffic from Halo. In addition, on August 13, 2012, Halo's local counsel submitted a letter, advising that local counsel's firm "is not authorized to take any action on Halo's behalf. Accordingly, our firm will not be filing a Post-Hearing Brief in this matter." No Post Hearing Brief has been filed for Halo. Pursuant to the Order Establishing Procedure, AT&T Florida filed a Post Hearing Brief on August 23, 2012.

Despite the discontinuance of service and bankruptcy liquidation of Halo, we believe it is appropriate to make a decision and issue a final order in this docket. In order to perfect its claim for the amounts due in the bankruptcy court, AT&T Florida will need a ruling that Halo is liable to AT&T Florida for access charges. We find that Halo has had ample opportunity to present its case through its pre-filed testimony, participation in the evidentiary hearing, and the opportunity to submit a post-hearing brief. Accordingly, today we render a decision and issue a comprehensive opinion.

---

[2] Tennessee Regulatory Authority, *Order*, issued January 26, 2012, in Docket No. 11-00119, In Re: BellSouth Telecommunications, LLC v. Halo Wireless, Inc.

[3] Wisconsin Public Service Commission, *Final Decision*, issued July 27, 2012, in Docket 9594-TI-100, Investigation into Practices of Halo Wireless, Inc. and Transcom Enhanced Services, Inc.

[4] South Carolina Public Service Commission, *Order Granting Relief against Halo Wireless*, issued July 17, 2012, in Docket No. 2011-304-C, Complaint and Petition for Relief of BellSouth Telecommunications, LLC d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Halo Wireless.

[5] Georgia Public Service Commission, *Order on Complaints*, issued July 17, 2012, in Docket No. 34219, In Re: Complaint of TDS Telecom, et. al v. Halo Wireless.

[6] Missouri Public Service Commission, *Report and Order*, issued August 1, 2012, in File No. TC-2012-0331, Halo Wireless, Inc. v. Craw-Kan Telephone Cooperative, et. al.

[7] Order No. PSC-12-0323-PHO-TP, issued June 22, 2012, PSC Document No. 04163-12.

[8] *Order Converting Chapter 11 Case to Case Under Chapter 7 of the Bankruptcy Code*, Document No. 822, Case No. 11-42464-11, United States Bankruptcy Court for the Eastern District of Texas, Sherman Division.

FLORIDA PUBLIC SERVICE COMMISSION JURISDICTION

AT&T Florida's Argument

AT&T Florida argues that we have already determined the issue of our jurisdiction in our March 20, 2012 Order Denying Halo's Partial Motion to Dismiss.[9] AT&T Florida maintains that our ruling, "like the ten other state commissions that have unanimously rejected Halo's jurisdictional claims, is plainly correct." AT&T Florida goes on to claim that Halo's claims regarding the wireless nature of the traffic at issue are meritless. AT&T Florida finally states that AT&T Florida, contrary to Halo's assertions, is not seeking that we address Halo's FCC wireless licenses.

Halo's Argument

In its Prehearing Statement, Halo states that the underlying dispute in this matter is controlled by federal law, which preempts any state disposition of these issues. Halo asserts that only the Federal Communications Commission may make decisions which affect federal telecom licenses, like Halo's. Halo further avers that courts have also held that state commissions cannot regulate wireless providers, including the federally granted right of wireless providers to interconnect.

Halo asserts that Halo's and Transcom's regulatory classifications are defined and governed exclusively by federal law. For example, Halo asserts that Transcom is an Enhanced Service Provider ("ESP") and therefore is not subject to access charges, but is instead an end user entitled to obtain telephone exchange service. Halo goes on to maintain that states are prohibited from taking any action that would prohibit the provision of wireless services, over which the FCC has exclusive jurisdiction.

Halo avers that federal courts have consistently held that state commissions cannot interpret or enforce federal licenses, that the FCC is the exclusive decider, and the FCC is therefore the only proper forum for determination of a wireless entity's practices. Finally, Halo maintains that a state commission cannot take any action that would "amount to a suspension or revocation of a federal license."

Analysis and Decision

After review of the evidentiary record, it appears that Halo's arguments are substantially the same as it advanced in its January Motion to Dismiss, which we denied, instead determining that we have jurisdiction to proceed under both state and federal law. And, after the conclusion of the evidentiary hearing and review of all record evidence, we again determine our decision should be the same: we clearly have jurisdiction to adjudicate this dispute, pursuant to both state and federal law, as well as by the terms of the parties' ICA.

[9] Order No. PSC-12-0129-FOF-TP, issued March 20, 2012.

Halo's argument on this issue can be reduced to one simple premise: because Halo possesses a federal wireless license, we are prohibited from taking any action that would have the effect of impairing that license. We do not accept this argument. Halo entered into an ICA with AT&T in Florida, which we approved, and which by both federal law and the terms of the ICA itself, confer jurisdiction to interpret and enforce the terms of the ICA. If Halo believed only the FCC could take action affecting Halo, Halo should have sought to have the ICA approved by the FCC. Halo's choice to submit this ICA for our approval expressly confers jurisdiction on this Commission to enforce and interpret disputes arising solely from the ICA.

As we determined in the Motion to Dismiss, both federal law (specifically 47 U.S.C. §252) and Florida law (Section 364.16, F.S.) designate the Florida Public Service Commission as the primary authority to interpret and enforce those Interconnection Agreements we approve. We have asserted this authority in several recent orders,[10] and this authority has been upheld by numerous federal court decisions.[11] Thus, our primary jurisdiction to enforce the terms of Interconnection Agreements is beyond question.

As argued by AT&T Florida, ten other states have addressed and decided this issue, finding they had jurisdiction to proceed. In denying Halo's substantially similar Motions to Dismiss, every state determined their authority under Federal and their individual state laws to proceed with the dockets. Furthermore, the terms of the AT&T Florida - Halo ICA specifically provide that we can resolve disputes relating to the interpretation or the implementation of the agreement[12]

Finally, our clear authority in this matter was explained by U.S. District Judge Hinkle in the Order on Remand:

> The Florida Legislature and Congress have given the Florida Public Service Commission a role in resolving inter-carrier disputes on issues of this kind due to the

---

[10] *See, e.g.*, Order No. PSC-10-0457-PCO-TP, issued July 16, 2010, in Docket No. 100021-TP, In re: Complaint and petition for relief against LifeConnex Telecom, LLC f/k/a Swiftel, LLC by BellSouth Telecommunications, Inc. d/b/a AT&T Florida.; Order No. PSC-11-0451-FOF-TP, issued October 10, 2011, in Docket No. 110087-TP, In re: Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.; Order No. PSC-11-0420-PCO-TP, issued September 28, 2011, in Docket No. 090538-TP, In re: Amended Complaint of Qwest Communications Company, LLC against MCImetro Access Transmission Services (d/b/a Verizon Access Transmission Services), et. al.

[11] *See, e.g.* Am. Dial Tone, Inc. v. BellSouth Telecomms., Inc., 2010 U.S. Dist. LEXIS 123162 (N.D. Fla. 2010); BellSouth Telecomms., Inc. v. MCIMetro Access Transmission Servs., Inc., 317 F.3d 1270, 1277-79 (11th Cir. 2003); Covad Communications v. BellSouth Corp, 374 F.3rd 1044 (11th Cir. 2004).

[12] *See* Exhibit 11, the ICA, Section XX Resolution of Disputes ("....[i]f the issue is not resolved within 30 days, either party may petition the Commission for a resolution of the dispute, or to the extent that the Commission does not have jurisdiction or declines to review the dispute, then the FCC. However, each party reserves the right to seek judicial or FCC review of any ruling made by the Commission concerning this Agreement."); Section XXVI, Governing Law ("this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the state in which service is provided, without regard to its conflict of laws principles, and the Communication Act of 1934 as amended by the Act.").

Commission's expertise. *See, e.g.*, Fla. Stat. §364.16; 47 U.S.C. §252. As I noted in *Vartec*:

> "[T]he Florida Legislature has given the Florida Public Service Commission authority to resolve disputes between carriers, *see* Fla. Stat. §364.07 (2001) [now Fla. Stat. §364.16 (2011)], not in an effort to bypass, but instead precisely because of, its regulatory expertise. By creating a remedy for inter-carrier disputes before the Commission, the Legislature did not simply afford jurisdiction over such disputes in a different court; instead, it afforded a remedy in a different type of forum altogether. In such a proceeding, the competence brought to bear will not be that of a court, but of a regulator.

Order on Remand, Pages 8 – 10, citing *BellSouth Telecomms., Inc. v. Vartec Telecom, Inc.*, 185 F. Supp. 2d 1280, 1283-84 (N.D. Fla. 2002).

In conclusion, we find that we have clear jurisdiction to adjudicate this interconnection agreement dispute under both federal and state law, as well as the terms of the ICA itself.

ORIGINATION OF TRAFFIC THROUGH WIRELESS FACILITIES

AT&T Florida's Argument

AT&T Florida contends that Halo breached the ICA by delivering traffic that was not originated through wireless transmitting and receiving facilities as stipulated by the parties' interconnection agreement. AT&T Florida argues that according to the ICA, Halo was only allowed to send traffic that originated wirelessly to AT&T Florida for termination or transit to another network. However, AT&T Florida maintains that despite this provision, a significant portion of the traffic that Halo sent to AT&T Florida originated on landline networks and was possibly subject to access charges.

AT&T Florida states that it rejects Halo's theory that Transcom is an Enhanced Service Provider and should therefore be treated as an end-user. AT&T Florida also rejects Halo's theory that because Transcom is an end-user, all calls that Halo sent to AT&T Florida, regardless of how the calls were originated (wireless or non-wireless), should be deemed to have originated with Transcom. AT&T Florida argues that Halo's "Transcom Origination" theory fails because: (1) the FCC and five other commissions have rejected Halo's theory;[13] (2) there is no authority for the proposition that Enhanced Service Providers originate every call they touch; (3) Transcom is not an Enhanced Service Provider; and (4) even if Transcom did originate calls, the calls were not wirelessly originated.

---

[13] The FCC rejected Halo's theory in its *Connect America Order* in paragraphs 1003-06. *Report and Order and Further Notice of Proposed Rulemaking, Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support*, WC Docket Nos. 10-90,07-135,05-337,03-109; GN Docket No. 09-51; CC Docket Nos. 01-92, 9645; WT Docket No. 10-208; FCC 11-161, 7 719, (released November 18, 2011)*("Connect America Order").* The Tennessee, South Carolina, Georgia, Wisconsin, and Missouri Commissions also reached similar decisions.

Halo's Argument

Halo states that the traffic at issue did originate through wireless transmitting and receiving facilities before Halo delivered it to AT&T Florida. According to Halo, when a caller places a call, the call is initially routed through Transcom. As argued by Halo, when Transcom receives the call, it "terminates" the call then wirelessly "originates" or re-originates the call before sending it to Halo, who in turn passes the call to AT&T Florida for final termination.

Halo contends that Transcom is not a telecommunications carrier, but is instead an Enhanced Service Provider and end-user. According to Halo, under the FCC's view end-users originate calls. Halo further contends that Transcom's status as an end-user and Enhanced Service Provider has been upheld by several courts and the rulings were incorporated into the Confirmation Order in Transcom's bankruptcy case.[14] Halo maintains that the courts also ruled that Transcom is an Enhanced Service Provider for phone-to-phone calls because Transcom offers enhanced capabilities and alters the content of every call that passes through its system. Halo contends that since Transcom is an Enhanced Service Provider end-user, all calls that Halo receives from Transcom and routes to AT&T Florida for termination are intraMTA and are therefore not subject to access charges. [15]

Analysis and Decision

The ICA adopted by the parties includes a clause that Halo is only allowed to send traffic to AT&T Florida for termination or for transit to another network that is wirelessly originated. The ICA states:

> ***Whereas, the Parties have agreed that this Agreement will apply only to*** **(1)** traffic that originates on AT&T's network or **is** transited through AT&T's network and is routed to Carrier's wireless network for wireless termination by Carrier; and (2) ***traffic that originates through wireless transmitting and receiving facilities before [Halo] delivers traffic to AT&T*** for termination by AT&T or for transit to another network. (Emphasis added). [16]

AT&T Florida witness Neinast testified that after Halo began sending traffic to AT&T Florida, AT&T noticed that Halo's traffic exhibited several unusual patterns that were not typically characteristic of a start-up rural wireless service provider like Halo. After observing

---

[14] AT&T argues that the bankruptcy court's decision that Halo is an Enhanced Service Provider under federal law is irrelevant because that decision was vacated on appeal and therefore carries no precedential or preclusive effect.

[15] Wireless traffic is classified as local (intraMTA) or non-local (interMTA) based on Major Trading Areas (MTA). If traffic is determined to be local it is subject to reciprocal compensation charges, whereas non-local traffic is subject to access charges which are typically much higher than reciprocal compensation rates.

[16] Both parties agree that the ICA in dispute in this docket is a wireless-only ICA. For the treatment of local traffic, wireless and landline ICAs are different.

these patterns AT&T Florida became suspicious of Halo's actions and began analyzing Halo's traffic. AT&T Florida analyzed traffic that Halo sent to AT&T during two one-week periods starting June 14, 2011 and September 26, 2011. AT&T Florida also analyzed Halo's traffic during a four week period beginning January 19, 2012. AT&T conducted its analysis by identifying the calling party number on each call received from Halo.[17] Once the calling party number was determined AT&T consulted the industry's Local Exchange Routing Guide (LERG) and the Local Number Portability (LNP) database to determine what kind of carrier (landline or wireless) owned that number and whether the carrier that owned the number had designated it in the LERG as landline or wireless.[18] Witness Neinast further testified that despite the fact that virtually 100% of Halo's traffic was represented as local wireless, AT&T Florida's call analyses revealed that 45%-67% of the total traffic that Halo sent to AT&T Florida was landline-originated and possibly subject to access charges.

While Halo's witness Wiseman did not dispute that it sent traffic to AT&T Florida that may have originated on landline networks, he argued that because Transcom wirelessly "initiates a further communication" on all calls before Halo sends them to AT&T Florida, Halo has complied with the "wireless only" stipulations of the ICA. Witness Wiseman also argued that because of IP and other technology developments, calling party number is unreliable as a method to determine the location of the originating point of a call. He pointed to three paragraphs in the FCC's *Connect America Order* where the FCC stated that numbers are not reliable for this purpose.

Despite Halo's claims that Transcom wirelessly originates calls, AT&T witness Neinast argued that the FCC specifically rejected Halo's theory in the *Connect America Order*. In paragraph 1006, the FCC clearly indicated that a wireline-originated call cannot be wirelessly re-originated in the middle of a call path:

> We clarify that a call is considered to be originated by a CMRS [Commercial Mobile Radio Service] provider for purposes of the intraMTA rule only if the calling party initiating the call has done so through a CMRS provider. Where a provider is merely providing a transiting service, it is well established that a transiting carrier is not considered the originating carrier for purposes of the reciprocal compensation rules. Thus, we agree with NECA that the "re-origination" of a call over a wireless link in the middle of the call path does not convert a wireline-originated call into a CMRS-originated call for purposes of reciprocal compensation and we disagree with Halo's contrary position. [footnotes omitted]

---

[17] 47 C.F.R. § 64.1600(e) provides in part: "The term 'Calling Party Number' refers to the subscriber line number or the directory number contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network." It is "the telephone number of the originating caller."

[18] The LERG is "a national routing database that stores information necessary to properly route traffic throughout the United States. It displays, for each NPA-NXX, the carrier to which that NPA-NXX is assigned, the tandem switch for routing interexchange and local traffic, and other pertinent information."

The FCC specifically addressed both Halo and call origination in its *Connect America Order* and concluded that the arrangement used by Transcom and Halo does not convert an otherwise landline call into a wireless one. While the FCC did express concern over the use of numbers to determine the geographic end points of a call, it only restrained itself from mandating their use. The FCC still allowed their use in tariffs to govern the process of disputing charges.[19] Halo did not offer an alternative method for determining call origination. AT&T adjusted its analysis, accommodating Halo's arguments, and still submitted that over 40% of Halo's traffic during the study period was landline-originated. Based upon this evidentiary record, it is our decision that absent a better method, the calling party number is still the best available method to determine a call's origination.

Halo also argued that the FCC views Transcom as an end-user and an Enhanced Service Provider and is thus exempt from carrier access charges. Halo witness Wiseman relied on four separate past rulings by bankruptcy courts in previous cases that Transcom was an Enhanced Service Provider. Halo witness Johnson testified that, as an Enhanced Service Provider, Transcom changes the content of every call that passes through its system by initiating an "enhanced service session" which includes activating such services as "Voice Activity Detection" and "Comfort Noise Generation."

AT&T Florida witness Neinast countered that the "enhanced services" that Transcom provides, minimizing background noises on voice calls and inserting "comfort noises" during periods of silence, does not fall within the FCC's definition of enhanced services.[20] AT&T Florida further argues that the FCC has upheld that a service is not "enhanced" when it is merely "incidental" to the underlying telephone service or merely "facilitate[s] the establishment of a basic transmission path over which a telephone call may be completed, without altering the fundamental character of the telephone service," and that in deciding whether a service is "enhanced" one must use the end user perspective. Since Transcom does not alter or add content to a call by suppressing background noise and adding comfort noise, we find that it is not providing an enhanced service and is therefore not an Enhanced Service Provider.

After careful review and consideration, it does not appear that the services provided by Transcom as presented in this record meet the FCC's definition of enhanced services. Instead, it appears that Transcom merely provides routine call quality processing. Additionally, if Halo has been terminating wireline-originated calls and the calls are not re-originated by Transcom, then whether or not Transcom is an Enhanced Service Provider becomes irrelevant. If Transcom is not wirelessly-originating the calls, it does not matter whether or not it is an Enhanced Service Provider.

---

[19] *Connect America Order* at paragraphs 934, 960, and 962

[20] 47 C.F.R. § 64.702(a) provides in part: "For the purpose of this subpart, the term enhanced service shall refer to services, offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information."

In conclusion, the parties' ICA only permits Halo to send wireless traffic to AT&T Florida for termination. Halo has acknowledged that it may have sent non-wireless originated traffic to AT&T Florida. The FCC has specifically addressed Halo's claims that Transcom wirelessly re-originates wireline calls and has rejected it. In addition, the "enhanced services" that Transcom provides do not comply with the FCC's enhanced services definition and that because it is not originating calls its status as an Enhanced Service Provider is not relevant. Therefore, based on review of the parties' ICA and the FCC's rulings, we today decide that Halo has delivered traffic to AT&T Florida that was not "originated through wireless transmitting and receiving facilities" as provided by the parties' ICA.

COMPLIANCE WITH SIGNALING REQUIREMENTS

AT&T Florida's Argument

AT&T Florida argues that Halo failed to provide accurate call detail information as required by the parties' ICA. AT&T Florida contends that this provision within the ICA is important between interconnected carriers because call detail information is used to determine the appropriate intercarrier compensation that is due. Providing inaccurate call detail information makes it very difficult for billing systems to accurately analyze and bill calls.

AT&T Florida contends that up until December 2011, Halo inaccurately inserted Transcom's charge number on every call.[21] Moreover, claims AT&T Florida, in every case where Transcom's charge number was inserted the charge number was in the same MTA as the MTA where the call was being terminated.[22] As a result, every call that Halo routed to AT&T Florida appeared to be both wireless and local. Since Halo represented all of the calls as local, it appeared that the calls were subject to reciprocal compensation rather than access charges.[23]

AT&T Florida argues that there is no justification for Halo's insertion of Transcom's charge number. AT&T Florida states that because there is no relationship between Transcom and any of the calling parties, Transcom is not financially responsible for the calls. AT&T Florida also argues that Transcom is not financially responsible for the calls because Transcom does not originate any calls. If Transcom had actually originated the calls, as Halo claims, Transcom's number would have shown up in the calling party number field on the call detail information.

AT&T Florida further takes issue with Halo's claims that inserting Transcom's charge number caused no harm and did not prevent AT&T Florida from accurately billing Halo for termination. AT&T Florida maintains that because the ICA indicates that AT&T Florida will bill

---

[21] 47 C.F.R. 64.1600(g) provides in part: "(t)he term 'charge number' refers to the delivery of the calling party's billing number in a Signaling System 7 environment by a local exchange carrier to any interconnecting carrier for billing or routing purposes, and to the subsequent delivery of such number to end users."

[22] Wireless traffic is classified as local (intraMTA) or non-local (interMTA) based on Major Trading Areas (MTA) and landline traffic is classified as local (intraLATA) or non-local (interLATA) based on Local Access and Transport Areas (LATA) or local calling areas.

[23] If traffic is determined to be local it is subject to reciprocal compensation charges whereas non-local traffic is subject to access charges, which are typically much higher than reciprocal compensation rates.

Halo for termination of wireless calls based on a factor for the percentage of calls to be treated as interMTA, rather than billing on a call-by-call basis, Halo's assertion that its activities caused no harm is incorrect.

Halo's Argument

Halo states that prior to December 29, 2011, it inserted Transcom's billing telephone number (BTN) into the charge number on the call detail information. Halo contends that the purpose of inserting Transcom's billing telephone number as the charge number was to designate the party who was financially responsible for the calls. Halo further argues that because Transcom is an end-user and an Enhanced Service Provider, that the call detail information that it provided accurately portrayed the traffic as intraMTA, and therefore subject to the "local" charges in the parties' ICA. In addition, Halo argues that inserting a charge number did not prevent AT&T Florida from properly billing Halo because, according to the ICA, Halo is billed based on the traffic factors that were negotiated between the parties and not on a call-by-call basis.

Analysis and Decision

Section XIV.G. of the parties' ICA states that:

> The parties will provide each other with proper call information, including all proper translations for routing between networks and any information necessary for billing where BellSouth provides recording capabilities. This exchange of information is required to enable each party to bill properly.

Call detail information includes the phone number of the person that originated the call, also known as the calling party number and, when applicable, the charge number. The charge number is used to identify the entity that is financially responsible for the call when the responsible party is different than the calling party number. The call detail information usually only lists the calling party number, which is used to determine how the call is categorized (local or non-local) and billed. The charge number field is usually blank or the same as the calling party number. However, when the call detail information includes both a calling party number and charge number and the charge number is different than the calling party number, the charge number overrides the calling party number and controls how the call is categorized and billed.

Record evidence reveals that Halo inserted Transcom's billing telephone number as the charge number on every call that it sent to AT&T Florida for termination. However, we believe a charge number should only be used to identify the financially responsible party when the originating party is not responsible. Since there is no relationship between Transcom and any of the calling parties and Transcom did not originate any of the calls, we find that Transcom is not the financially responsible party. If Transcom had actually originated the calls, as Halo claims,

Transcom's number would have shown up in the calling party number field on the call detail information.

In the *Connect America Order* the FCC addressed the problem of charge number substitution that disguises the characteristics of traffic to terminating carriers, and found that charge number substitution is a technique that leads to phantom traffic. In paragraph 714 of the *Connect America Order*, the FCC stated that the charge number field "may not contain or be populated with a number associated with an intermediate switch, platform, or gateway," yet that is what Halo did. We agree with the FCC's findings, and therefore, we find that Halo's insertion of Transcom's charge number on the call detail information is not justified.

We also disagree with Halo's assertions that its insertion of Transcom's charge number caused AT&T Florida no harm and did not prevent AT&T Florida from accurately billing Halo for termination. Halo makes this argument on the theory that because the ICA indicates that AT&T Florida will bill Halo for termination of wireless calls based on a factor for the percentage of calls to be treated as interMTA, rather than billing on a call-by-call basis, the call number substitutions are irrelevant. This theory fails, because the ICA allows the factor to be adjusted based on the actual traffic sent by Halo. By inserting Transcom's charge number into the call detail information, Halo caused the billing records to inaccurately indicate that all of Halo's traffic was intraMTA when in fact a large portion of Halo's traffic was actually interMTA. Had AT&T Florida not become suspicious of Halo's call detail information and investigated the matter, AT&T Florida would not have known that the billing factors needed to be adjusted to account for the interMTA traffic. Therefore, Halo's insertion of Transcom's charge number not only caused harm by disguising the true nature of the call traffic, thus enabling Halo to avoid paying access charges for non-local traffic, it also prevented AT&T Florida from accurately billing Halo for its terminating traffic.

It is our decision that, by inserting Transcom's billing telephone number as the charge number on the call detail information when Transcom was not the party financially responsible for the calls, Halo provided inaccurate call detail information to AT&T Florida. We further find that Halo also provided inaccurate call detail information when it inserted a local charge number for each call despite the fact some of the calls were non-local. Therefore, based on the terms of the parties ICA and our analysis and decisions, we find that Halo did not comply with the signaling requirements in the parties' ICA.

PAYMENT OF APPROPRIATE COMPENSATION

AT&T Florida's Argument

AT&T Florida contends that Halo sent it landline interexchange traffic (both interstate and intrastate) that Halo misrepresented as local. As a result, AT&T Florida claims Halo only paid AT&T Florida reciprocal compensation charges instead of the higher access charges that apply to non-local traffic. AT&T Florida maintains that because the landline-originated traffic was not permitted by the wireless-only ICA, there are no terms in the ICA defining the proper intercarrier compensation that Halo must pay AT&T Florida for terminating that traffic.

AT&T Florida asserts that the appropriate rates that Halo should pay can be found in its federal tariff filed with the FCC for interstate traffic. AT&T Florida states that its tariff requires Halo to pay access charges on the interstate traffic AT&T Florida terminated for Halo. For intrastate traffic, AT&T Florida argues that its state tariff, filed with this Commission, requires Halo to pay access charges on the intrastate non-local traffic AT&T Florida terminated for Halo.

AT&T Florida also asserts that, even absent an ICA for wireline traffic, the "constructive ordering" doctrine applies and Halo is still liable to AT&T Florida for access charges. AT&T Florida further argues that the FCC and five state commissions have held that Halo is either not exempt from, or is affirmatively liable for, terminating access charges.

Halo's Argument

Halo believes that the ICA it adopted with AT&T Florida only requires it to pay reciprocal compensation because its customer's traffic is wireless IntraMTA traffic. It argues that the ICA supports this conclusion because Halo's customer, Transcom, is an Enhanced Service Provider and that Enhanced Service Providers are "end users." As a result of its customer's "end user" status, asserts Halo, traffic from Transcom sent to Halo over a wireless network is "wireless originated," consistent with the terms of the AT&T Florida ICA.

Furthermore, Halo notes that the FCC characterized Halo's traffic as "transit." Halo argues the FCC states that "transiting occurs when two carriers that are not directly interconnected exchange non-access traffic by routing the traffic through an intermediary carrier's network." Thus, asserts Halo, even if we accept the proposition that Transcom is a carrier, then access charges are still not owed to AT&T Florida.

Analysis and Decision

The premise of the ICA that Halo and AT&T Florida entered into was that all of the traffic would be wireless in nature. Halo contends that this traffic is local and subject to reciprocal compensation charges as opposed to the higher access charges that apply to non-local traffic. AT&T Florida contends, however, that Halo sent landline interexchange traffic for which access charges are due under federal and state tariffs. AT&T Florida argues that Halo "constructively orders" services under a tariff, and must pay the tariffed rate, if it (1) is interconnected in such a manner that it can expect to receive access services; (2) fails to take reasonable steps to prevent the receipt of services; and (3) does in fact receive such services.[24]

Halo also argues that the FCC concluded in the *Connect America Order* that Halo's service is merely a transit service and it cannot owe terminating access charges to AT&T Florida or other carriers. We disagree. The *Connect America Order* never held that Halo's service is a transit service. The *Connect America Order* did, however, address the issue as to whether Transcom could be deemed to originate every call it touches and whether the calls Halo was

[24] *Advamtel LLC v. AT&T Corp.*, 118 F. Supp. 2d 680, 685 (E.D. Va 2000) (citing *United Artists Payphone Corp. v. New York Tel. Co.*, 8 FCC record 5563 at ¶ 13(1993) and *In re Access Charge Reform*, 14 FCC record 14221 at ¶ 188 (1999).

handing to AT&T Florida should be treated as local or non-local. The FCC found that "a transiting carrier is not considered the originating carrier for purposes of the reciprocal compensation rules," and used the term "transit" merely to point out that entities that simply pass calls on in the middle of the call path are not viewed as originating those calls.

As we have previously discussed, we do not agree with Halo's categorization of its traffic and that significant amounts of its traffic delivered to AT&T Florida for termination were landline-originated. We therefore find that access charges are due to AT&T Florida. Section VII.B. of the parties' wireless ICA contemplates interMTA non-local traffic and refers to AT&T's intrastate and interstate access tariffs for applicable rates. Compensation for non-wireless forms of traffic is not addressed within the ICA between Halo and AT&T Florida. The lack of terms in the ICA defining the proper intercarrier compensation that Halo must pay for terminating landline–originated traffic does not excuse Halo from compliance with lawful tariffs. Accordingly, it is our decision that the appropriate rates for compensation for any wireline-originated non-local traffic are interstate access charges filed with the FCC for interstate traffic and intrastate access charges filed with this Commission for intrastate traffic.

PAYMENT FOR FACILITIES ORDERED BY HALO WIRELESS

AT&T Florida's Argument

According to AT&T Florida, the ICA it entered with Halo is different from landline ICAs. One difference concerns cost responsibility for interconnection facilities. In a landline ICA, argues AT&T Florida, cost responsibility is typically determined by the point of interconnection, in that the competitive carrier typically is responsible for the facilities on its side of the point of interconnection and the incumbent carrier is typically responsible for the facilities on its side of the point of interconnection. AT&T Florida asserts that wireless ICAs are different. In a wireless ICA, claims AT&T Florida, cost responsibility for interconnection facilities is typically shared between the carriers and typically apportioned based on the amount of traffic sent by each carrier. AT&T Florida avers the Halo-AT&T Florida ICA is a typical wireless ICA in this regard. AT&T Florida states that Section V.B. of the ICA requires AT&T Florida and Halo to pay each other for interconnection facilities based on the proportion of the total traffic that each party sends to the other. This apportioning of facilities cost, argues AT&T Florida, applies to the entire facility between AT&T Florida's switch and Halo's switch.

AT&T Florida also argues that Halo's main defense is its theory that cost responsibility for interconnection facilities ends at the point of interconnection. AT&T Florida avers that might make sense if Halo had a landline ICA, but it does not. Here, states AT&T Florida, the ICA uses the typical wireless ICA terms, where cost responsibility for interconnection facilities is based on proportional usage. AT&T Florida claims that it is undisputed that 100% (or very close to 100%) of the traffic between the parties came from Halo, meaning Halo is responsible for 100% of the costs for the interconnection facilities that it ordered from AT&T Florida, obtained from AT&T Florida, and used to send traffic to AT&T Florida. AT&T Florida further claims that Halo contends that trunking costs are to be shared proportionately under the ICA only when Halo uses AT&T Florida's facilities to get to the point of interconnection. AT&T Florida

argues that this is incorrect. As Section V.B. of the ICA states, the apportioning of the trunking cost applies "if the Parties mutually agree upon a two-way trunking arrangement."

AT&T Florida states that it disagrees with Halo's assertion that facilities costs are covered by reciprocal compensation charges. Reciprocal compensation charges are per minute charges for the incremental cost incurred to transport and terminate traffic, asserts AT&T Florida. Facilities charges, in contrast, are non-usage sensitive recurring charges for the cost of the facilities themselves. AT&T Florida argues that, to the best of its knowledge, no one has ever expressed the view that reciprocal compensation charges cover the cost of physical facilities. Finally, AT&T Florida avers that Halo admits that it ordered the facilities and trunk group elements for which AT&T Florida seeks payment. AT&T Florida claims there is also no dispute that it provided the facilities and trunk groups that Halo ordered.

Halo's Argument

Halo argues that under the ICA, AT&T Florida may only charge for interconnection "facilities" when AT&T Florida's "facilities" are used by Halo to reach the mutually-agreed point of interconnection. Halo states that it obtains transmission from its network to AT&T Florida tandem buildings from third party service providers. In the vast majority of locations, asserts Halo, the third party service provider has transport facilities and equipment in the tandem building, either in a "meet me room" area or via collocation facilities purchased from AT&T Florida. In all Florida markets, except Miami, Halo asserts that it has secured third party transport all the way up to the mutually-agreed point of interconnection. Halo maintains the third party transport provider will have a collocation arrangement in the AT&T Florida tandem.

Halo notes that Section IV.C. of the ICA establishes the "point of interconnection" concept, which serves as the location where traffic exchange occurs. Halo asserts that this is where a carrier's financial responsibility for providing facilities ends and reciprocal compensation for completing the other carrier's traffic begins. Under the ICA, argues Halo, both parties are responsible for bringing facilities to the point of interconnection at their own cost, and do not recover "facility" charges from the other for facility costs unless party A buys a "facility" from party B to get from party A's network to the point of interconnection. Facility costs on the other side of the point of interconnection are not recoverable as such, asserts Halo; instead, the providing party's cost recovery occurs through reciprocal compensation.

Analysis and Decision

The charges in dispute are for the AT&T Florida-provided facilities that extend from the end of Halo's facility (for example, at a third party collocation cage where Halo's leased facility terminates) to AT&T Florida's switch ports. While the ICA addresses the point of interconnection, it does not indicate that the point of interconnection is the point of demarcation for financial responsibility for interconnection facilities. The ICA defines the point of interconnection as "the technical interface, the test point(s), and the point(s) for operational division of responsibility between" the parties. While Section IV of the ICA addresses the

"Methods of Interconnection," Section VI addresses "Compensation and Billing." Specifically, Section VI.B.2. of the ICA, the portion that addresses two-way interconnection facilities, states:

> 2. The Parties agree to share proportionately in the recurring costs of two-way interconnection facilities.
>
> a. To determine the amount of compensation due to Carrier for interconnection facilities with two-way trunking for the transport of Local Traffic originating on BellSouth's network and termination on Carrier's network, Carrier will utilize the prior months undisputed Local Traffic usage billed by BellSouth and Carrier to develop the percent of BellSouth originated Local Traffic.
>
> b. BellSouth will bill Carrier for the entire cost of the facility. Carrier will then apply the BellSouth originated percent against the Local Traffic portion of the two-way interconnection facility charges billed by BellSouth to Carrier. Carrier will invoice BellSouth on a monthly basis, this proportionate cost for the facilities utilized by BellSouth.

AT&T Florida argues that the costs of the facilities between Halo and AT&T Florida are shared based upon each carrier's proportional use. We agree. Halo did not dispute that 100% (or very close to 100%) of the traffic between the parties comes from Halo, and that AT&T Florida originates virtually no traffic to Halo. Therefore, since according to the ICA Halo is responsible for (very nearly) 100 percent of the traffic, it is our decision that Halo is responsible for those costs.

In conclusion, in order to interconnect with AT&T Florida, Halo ordered and obtained interconnection facilities from AT&T Florida through a wireless-only ICA. The ICA states that the costs of these interconnection facilities will be shared based upon each carrier's proportional use. Because Halo is responsible for 100% (or nearly 100%) of the traffic that has been exchanged between the Parties, we find that Halo is responsible for the costs of the facilities and trunk groups. The amount of these costs is to be determined by the bankruptcy court.

MATERIAL BREACH OF THE INTERCONNECTION AGREEMENT

AT&T Florida's Argument

AT&T Florida refers to its arguments above to demonstrate that Halo has materially breached its ICA with Halo Wireless. AT&T Florida asserts that "blackletter law" states that if a party materially breaches a contract, the other party is excused from further performance. AT&T Florida avers that Halo's material breach of the ICA, by continuously sending large amounts of landline originated traffic which the ICA does not allow, "defeats the core purpose of the ICA, which was to establish rates, terms, and conditions for wireless originated traffic only."

Halo's Argument

In its Prehearing Statement, Halo states that it did not breach the parties' ICA, because all of the traffic it terminated to AT&T Florida came from end user wireless equipment. Halo further asserts that its insertion of Transcom's information into the charge number field is not a breach of the ICA, since Transcom is the party financially responsible for the calls passing over its trunks to and from AT&T Florida. Halo asserts that it did not prevent AT&T Florida from being able to properly bill Halo; rather, that the billing between the parties is based on negotiated traffic factors, not call by call data. Halo asserts that all the information needed by AT&T Florida was included in the calling data, and that the call detail information accurately portrayed the traffic at issue as "intraMTA," subject to local charges, since Transcom is an Enhanced Service Provider.

Analysis and Decision

As explained above, we find that Halo continuously breached the terms of the parties' ICA by sending non-wireless originated traffic for termination to AT&T Florida, and disguising such traffic to appear to be wireless originated. Pursuant to the parties' ICA, Halo was to deliver only wireless-originated traffic for termination to AT&T Florida. Provision (2) of Section 1 of the Amendment to the ICA states:

> Whereas, the Parties have agreed that this Agreement will apply only to (1) traffic that originates on AT&T's network or is transited through AT&T's network and is routed to Carrier's wireless network for wireless termination by Carrier; and (2) traffic that originates through wireless transmitting and receiving facilities before Carrier delivers traffic to AT&T for termination by AT&T or for transit to another network.
> (EX 12, Page 1)

This provision is clear on its face: under the ICA, only wireless-originated traffic could be delivered to AT&T Florida for termination. We have already determined that the record clearly demonstrates that between 45% and 67% of the traffic delivered to AT&T Florida for termination was non-wirelessly originated. Based on the clear and unambiguous language in the ICA, we determine that this conduct constitutes a material breach[25] of the parties' ICA.

As previously discussed, Halo's arguments that the traffic in question was wirelessly originated are not persuasive. First, regardless of Transcom's Enhanced Service Provider status, Transcom was not the party financially responsible for payment to AT&T Florida. Halo

[25] Black's Law Dictionary (8th Ed. 2004) defines a "material breach" as "[a] breach of contract that is significant enough to permit the aggrieved party to elect to treat the breach as total (rather than partial), thus excusing that party from further performance and affording it the right to sue for damages." We have recently found that withholding disputed charges, contrary to the language of an ICA, constitutes a material breach. *See* Order No. PSC-11-0291-PAA-TP, issued July 6, 2011, in Docket No. 110087-TP, In re: Notice of adoption of existing interconnection, unbundling, resale, and collocation agreement between BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast and Image Access, Inc. d/b/a NewPhone, Inc. by Express Phone Service, Inc.;

delivered traffic to AT&T Florida for termination, pursuant to an ICA. Absent a different agreement with AT&T Florida, Halo cannot designate some non-party to the agreement as being financially responsible for the traffic the ICA was entered into to exchange.[26]

Furthermore, the record indicates that Halo's insertion of Transcom's information in the charge number field had the effect of overriding AT&T Florida's billing software, such that the result was to obscure Halo's delivery of non-wireless originated traffic. Whether or not such effect was intentional by Halo, such action was clearly unauthorized by the ICA, had the effect of misleading AT&T Florida, and is not a legitimate and permitted action under the terms of the ICA.

In summary, Halo's actions clearly had the effect of disguising the traffic delivered to AT&T Florida, such that Halo delivered to AT&T Florida for termination a substantial amount of non-wireless originated traffic. Regardless of intent, the effect of Halo's actions was to prevent AT&T Florida from accurately billing for traffic not authorized under the ICA, for the time period it took AT&T Florida to identify, quantify, and petition for permission to stop receiving such traffic. We cannot find that actions by a party to an ICA, which have these effects, can be considered authorized activities under the ICA. Instead, such actions clearly constitute a breach of the fundamental terms of the ICA.

TERMINATION OF THE PARTIES' INTERCONNECTION AGREEMENT AND DISCONTINUANCE OF PERFORMANCE

AT&T Florida's Argument

AT&T refers to the arguments it made on previous issues.

Halo's Argument

In its Prehearing Statement, Halo did not include a position on this issue. Following direction at the Prehearing, Halo provided a position, which was included in the Prehearing Order. Halo asserts that if we determine that Halo has materially breached the ICA, Halo stands ready to re-negotiate terms and so come into compliance. Halo maintains that, given the FCC's *Connect America* decision,[27] Halo should be allowed to utilize the ICA's change of law provisions.

---

[26] See, e.g., Order No. PSC-97-0064-FOF-TP, issued January 17, 1997, in Docket No. 960980-TP, In Re: Petitions by AT&T Communications of the Southern States, Inc., MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc., for arbitration of certain terms and conditions of a proposed agreement with GTE Florida Incorporated concerning interconnection and resale under the Telecommunications Act of 1996. ("We believe that GTEFL should not be permitted to unilaterally modify an agreement reached pursuant to the Act by subsequent tariff filings. One party to a contract cannot alter the contract's terms without the assent of the other parties. United Contractors, Inc. v. United Construction Corp., 187 So.2d 695 (Fla. 2d DCA 1966)").

[27] *Connect America Order*. See full reference to Order at footnote 13.

Analysis and Decision

As explained in the Case Background, due to the instructions of the Chapter 7 Bankruptcy Trustee, AT&T Florida disconnected Halo Wireless, and stopped accepting traffic from Halo, effective August 1, 2012. However, given the fact that the discontinuance of performance is at the direction of the Bankruptcy Trustee, we believe it appropriate to make our independent determination whether to specifically authorize AT&T Florida to discontinue performance under and terminate the Interconnection Agreement.

Halo essentially argues that if it did breach the ICA, it should be given an opportunity to renegotiate the terms of a new ICA, utilizing the existing ICA's "change of law" provisions. Halo's argument is unpersuasive. In essence, Halo believes its conduct was permissible under the terms of the ICA prior to the FCC's issuance of the *Connect America* decision, and as a result of that decision, the ICA's "change of law" provisions should be invoked. However, as determined above, Halo's conduct was never authorized by the ICA. Further, we do not believe the FCC's *Connect America* decision was in any way a change of law; rather, it made clear that, despite Halo's arguments to the contrary, Halo's business model did not (nor had it ever) provide any exemption from Halo's obligation to pay access charges for non-wireless originated traffic delivered to AT&T Florida for termination in Florida.

We have determined that Halo has materially breached the terms of the ICA. The record does not indicate any serious effort by Halo to cure the breach, or to negotiate a subsequent ICA which would allow Halo to remain in business and continue to terminate traffic to AT&T Florida under terms and conditions acceptable to both parties. Based upon the record evidence before us and our previous findings, we authorize AT&T Florida to discontinue performance under the Interconnection Agreement with Halo. In addition, Halo has advanced no argument, nor presented any record evidence, that persuades us that the ICA should be continued. To the contrary, the facts in this record support the conclusion that AT&T Florida is entitled to terminate the ICA as a result of Halo's material breach. Accordingly, in addition to discontinuing performance under the ICA, we also determine that AT&T is entitled to immediately terminate the Interconnection Agreement with Halo.

CONCLUSION

As fully discussed above, following a full hearing and development of a full evidentiary record, we have determined that Halo Wireless materially breached the terms of the parties' Interconnection Agreement by sending landline originated traffic, inserting incorrect charge number data, and failing to pay for interconnection facilities ordered by Halo. We have also determined that Halo Wireless is liable to AT&T Florida for non-local access charges on the non-local landline traffic Halo delivered to AT&T Florida, as well as interconnection facilities charges for facilities ordered by Halo. Finally, we have authorized AT&T to discontinue further performance under and to terminate the parties' Interconnection Agreement

When it remanded these proceedings back to state commissions, the Bankruptcy Court specifically ordered that those commissions could not determine the amounts of any liability,

only that such liability exists. Accordingly, while we find that Halo Wireless is liable to AT&T Florida for access charges on all non-local traffic delivered by Halo and terminated by AT&T Florida, and that Halo Wireless is liable to AT&T Florida for charges for interconnection facilities ordered by Halo, for which AT&T Florida has billed Halo and Halo has not paid, determination of the exact amount due AT&T Florida will be the provenance of the Bankruptcy Court.

CLOSURE OF DOCKET

Given our decision to grant the relief requested by AT&T Florida in the Complaint, there is no further action to be taken in this docket. Accordingly, this docket shall be closed 32 days after issuance of this order, to allow the time for filing an appeal to run.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that AT&T Florida's Complaint and Petition for Relief against Halo Wireless, Inc. is Granted. It is further

ORDERED that AT&T Florida is authorized to immediately discontinue performance under and to terminate the parties' Interconnection Agreement. It is further

ORDERED that Halo Wireless, Inc., is liable to AT&T Florida for access charges on all non-local traffic delivered by Halo and terminated by AT&T Florida. It is further

ORDERED that Halo Wireless is liable to AT&T Florida for charges for interconnection facilities ordered by Halo, for which AT&T Florida has billed Halo and Halo has not paid. It is further

ORDERED that determination of the exact amount due AT&T Florida will be the provenance of the Bankruptcy Court. It is further

ORDERED that this docket shall be closed after the time for filing an appeal has run.

By ORDER of the Florida Public Service Commission this 31st day of October, 2012.

ANN COLE
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.