ICC Docket No. 12-0182
Illinois Bell Telephone Company
v. Halo Wireless, Inc.

AT&T Illinois Exhibit 1.0
Direct Testimony of J. Scott McPhee

Schedule JSM-6

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Board Certified Administrative Law

August 12, 2011

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Room TWB-204
Washington, DC 20554

Ex Parte Notice

RE: *Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Federal-State Board on Universal Service*, CC Docket No. 96-45

Dear Ms. Dortch:

Halo Wireless, Inc. hereby gives notice that it met with the Commission persons identified below on August 10, 2011. The Halo representatives were Russ Wiseman, Halo's President and Chief Operating Officer, counsel Steven Thomas of McGuire, Craddock & Strother, P.C and counsel W. Scott McCollough of McCollough|Henry, P.C. The Commission participants were:

Wireline Competition Bureau: Randy Clarke, Travis Litman, John Hunter, Al Lewis, Richard Hovey, Rebekah Goodheart and Marcus Maher

Wireless Telecommunications Bureau: Joseph Levin

Enforcement Bureau: Margaret Dailey

The purpose of the meeting was to introduce Halo to the Commission, describe Halo's operations and to respond to certain assertions made by various RLECs in recent filings and meetings with the Commission in the context of the above-cited proceedings. Halo distributed the attached document that served as the basis for discussion during the meeting.

Sincerely,

W. Scott McCollough
Counsel for Halo Wireless, Inc.

FCC Meeting

Wireline Competition Bureau and Wireless Telecommunications Bureau

Halo Wireless, Inc.

Connect America Fund, WC Docket No. 10-90

A National Broadband Plan for Our Future, GN Docket No. 09-51

Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135

High-Cost Universal Service Support, WC Docket No. 05-337

Developing an Unified Intercarrier Compensation Regime, CC Docket No. 01-92

Federal-State Board on Universal Service, CC Docket No. 96-45

August 10, 2011

Agenda

•Introduce Halo representatives

•Provide FCC staff an overview of Halo Wireless, Inc.

•Address questions and allegations raised by ILECs in state complaints

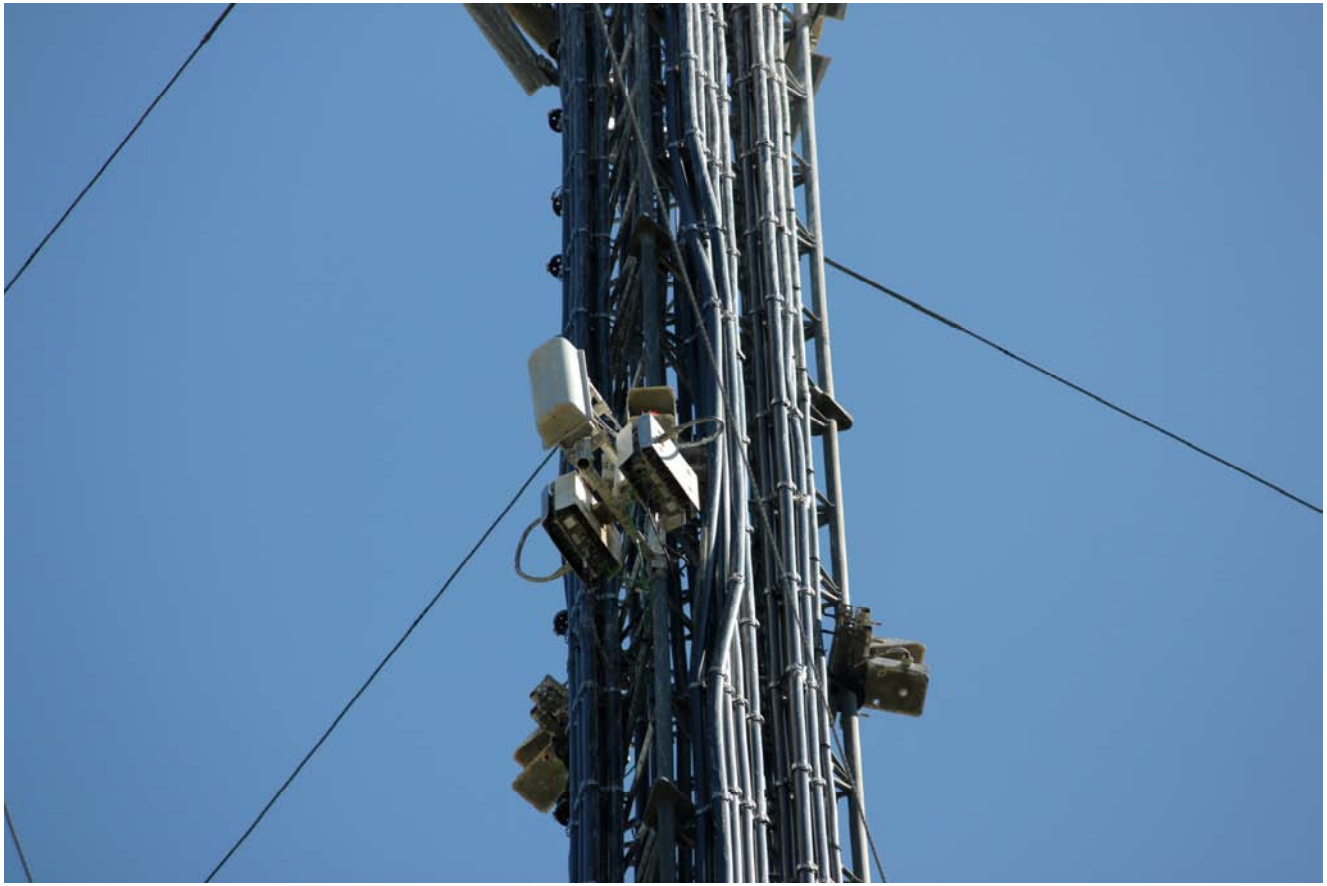
•Q&A

Halo Wireless has built an all IP network, presently in 28 markets across the U.S., using 3.65 Ghz spectrum and 802.16(e) Wi-Max wireless access technology

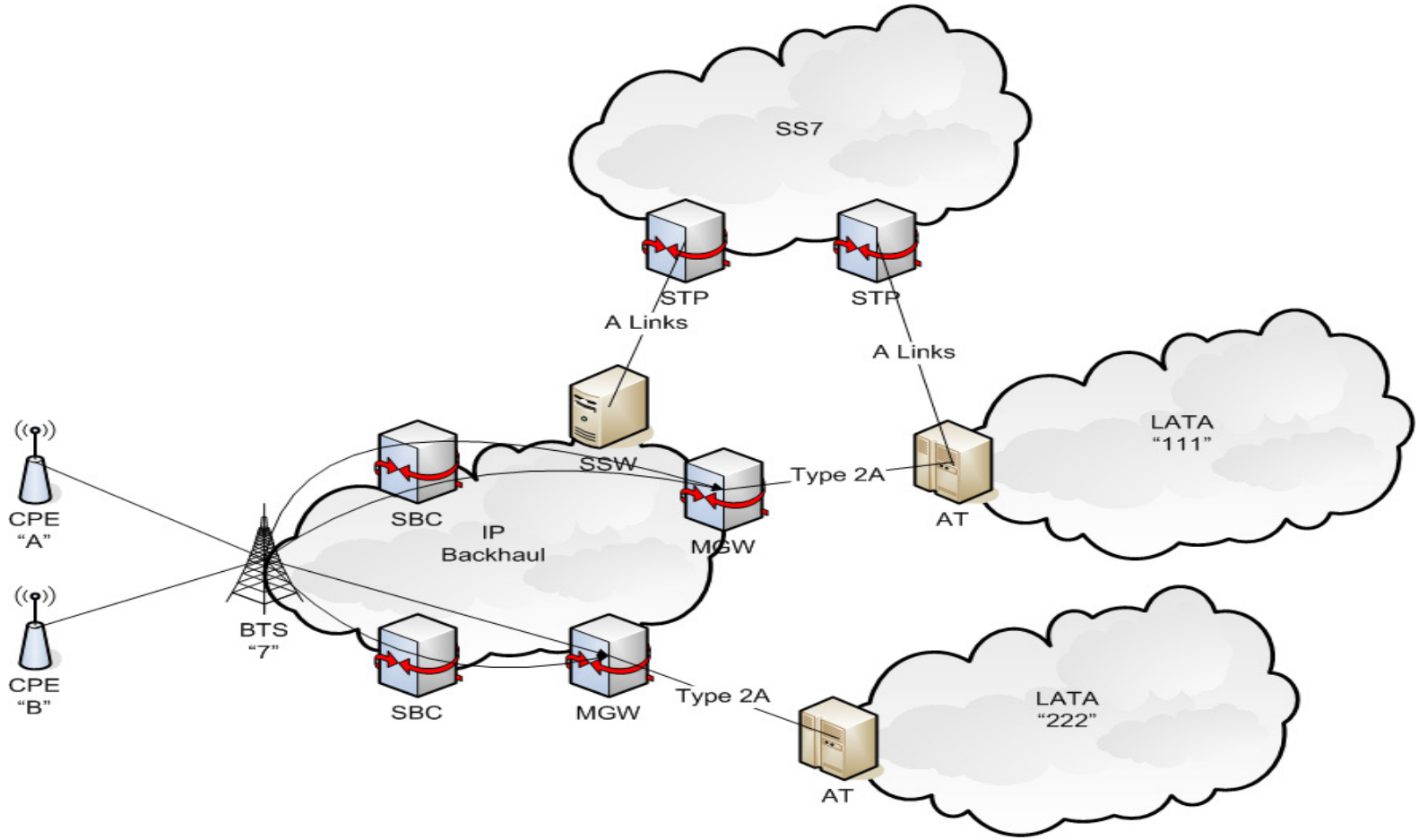
MTA	Tower Locations
LA	Amargosa Valley, NM
San Francisco	Tulare, CA
Chicago	Danville, IL
Detroit	Britton, MI
Charlotte	Orangeburg, SC
Dallas-Fort Worth	Tyler, TX
Atlanta	Cartersville, GA
Tampa-Orlando	Palm Coast, FL
Houston	Brenham, TX
Southeast FL	Bonita Springs, FL
New Orleans	Hammond, LA
Cleveland	Huntsburg, OH
Cincinnati-Dayton	Wilmington, OH
St Louis	Wentzville, MO

MTA	Tower Locations
Milwaukee	New Glarus, WI
Louisville	Paducah, KY
Memphis-Jackson	Greenville, MS
Birmingham	Graysville, AL
Indianapolis	Portland, IN
San Antonio	Pleasanton, TX
Kansas City	Junction City, KS
Jacksonville	Green Cove Springs, FL
Columbus	Carroll, OH
Little Rock	Van Buren, AR
OKC	Henryetta, OK
Nashville	Gainesboro, TN
Knoxville	Amherst, TN
Tulsa	Enid, OK

Halo Wireless has invested substantial capital in its 3.65 Ghz WiMax 802.16(e) wireless network.



Halo Wireless's core network is all IP from customer wireless access points up through the IP-TDM conversion for ILEC traffic exchange.*



Halo is a legitimate, independent business with a novel, legal business strategy.

Leverage the availability of 3.65Ghz spectrum and WiMax mobile access technology to offer two sets of services in rural areas:

① Broadband wireless mobile voice and data services to retail consumers and small businesses in under served rural communities throughout the U.S.

- Voice service currently requires soft client running on laptop.
  - Awaiting FCC certification on Airpsan USB device.
  - Testing integrated 3.65/WiFi access points for enhanced mobility.
  - Evaluating iPhone/Android smart phone clients.

- Hundreds of thousands of marketing dollars spent to date; small base of retail customers acquired, with continued efforts to expand base underway.

Halo is a legitimate, independent business with a novel, legal business strategy.

Leverage the availability of 3.65Ghz spectrum and WiMax mobile access technology to offer two sets of services in rural areas:

② Common Carrier wireless exchange services to ESP and enterprise customers.

- One primary customer; other arrangements under development
- Customer connects wirelessly to Halo base stations in each MTA. All traffic traversing interconnection arrangements originates from customer with wireless link to base station in same MTA.
- Halo transmits intelligence of the customer's choosing.

- Operating Rules and Requirements:
  - Must obtain interconnection agreements with ILECs to enable traffic exchange across wide footprint, starting with principal ILEC that operates primary tandems.
  - Only traffic destined to telephone exchange in the same MTA in which the tower resides is accepted for termination over this link; all other traffic is routed to an IXC for handling, and exchange access charges are paid.

Halo's detractors are railing at the rules, but blaming Halo.

Are Halo's services CMRS?

- Halo's small volume customers can make and receive calls using soft clients on laptop computers or tablets connected to mobile/nomadic CPE. While not as elegant as a mobile phone, these services are functionally equivalent to that where traditional handset is used.
- Halo's high volume service offering is also CMRS, as the customer connects to Halo's base station using wireless equipment which is capable of operation while in motion.
- The customer is originating calls to Halo by virtue of its exercise of the right to attach to the network and use telecommunications. *See , In Re Atlantic Richfield Co., 3 FCC Rd. 3089 (1988), aff'd PUC of Texas v. FCC, 886 F.2d 1325 (D.C. Cir. 1989).*

Halo's detractors are railing at the rules, but blaming Halo.

Is Halo's traffic local IntraMTA?

- The origination point for Halo traffic is the base station to which Halo's customers connect wirelessly.
- Halo is transmitting, between or among points specified by the user, information of the user's choosing.
- The customer is originating calls to Halo by virtue of its exercise of the right to attach to the network and use telecommunications. *See , In Re Atlantic Richfield Co., 3 FCC Rd. 3089 (1988), aff'd PUC of Texas v. FCC, 886 F.2d 1325 (D.C. Cir. 1989).*
- Halo's voice service is entirely within the MTA, and is therefore telephone exchange service, not telephone toll.
- Halo does not provide roaming.

Halo's detractors are railing at the rules, but blaming Halo

Halo's signaling practices follow industry standards and comply with the FCC's proposed "Phantom Traffic" rules

- Halo connects to the customer using WiMax, an IP-based technology fully capable of supporting native SIP communications.
- Halo locates the SIP header information corresponding to the Calling Party Number and populates the address in the SS7 ISUP IAM CPN parameter address signal location. Halo does not change or manipulate this information in any way; it is protocol converted and populated without change.
- Since Halo's customer is the responsible party, Halo also populates the SS7 Charge Number parameter with a Halo number corresponding to the customer's BTN for that MTA.
- The FCC's proposed phantom traffic rules would require precisely the practices Halo has adopted.

Halo's detractors are railing at the rules, but blaming Halo.

RLEC Interconnection Activities

- Halo has accepted proper requests for interconnection from almost 50 RLECs, and the parties are currently in § 252 negotiations. Halo is paying interim compensation to those carriers.
- The RLECs where we have disputes:
  - Do not like the "no compensation if no contract or request for interconnection" result prescribed in *T-Mobile*, and criticize Halo for relying on that result.
  - Refuse to follow rule 20.11(e) requiring them to both "request interconnection" and "invoke the negotiation and arbitration procedures contained in section 252 of the Act." We believe they are motivated by desire to receive very high non-TELRIC prices for termination and are concerned that if they "request interconnection" they may have to interconnect via IP.
  - Are misusing the " § 252 process" to challenge and limit Halo's activities pursuant to federal permissions.
- Their desired result is to deem Halo's traffic as subject to access charges, not § 251(b)(5), and classify Halo as an IXC rather than a CMRS provider.
  - Statutory service definitions and FCC precedent do not support these outcomes.

The issues raised by the RLECs fall exclusively within the FCC's jurisdiction, and are not suitable for state commissions

- Neither Congress nor the Commission have delegated enforcement of § 332 and rule 20.11 to the states.
  - The states have delegated power to conduct arbitrations, but only for topics covered by § 251 (unless the parties voluntarily consent to negotiate without regard to standards in the Act).
- Halo continues to be prepared to negotiate, and if necessary arbitrate, for interconnection agreements implementing the mandatory topics.
  - The debate is not about how to implement the RLECs' § 251(a), (b) and/or (c) duties. Rather, the RLECs are challenging CMRS' right to enter the market with a new business model and compete directly with the incumbents for telephone exchange and exchange access service.
- Only the FCC can decide whether an activity is or is not "wireless" or "CMRS"; and the FCC has already decided when a CMRS service constitutes "telephone exchange service" vs. "telephone toll."
  - The scope and nature of "permitted activities" under a nationwide FCC license is not a proper topic for state-level arbitration.
  - One nationwide license cannot have 50 variations, and cannot be subjected to 50 state-level cases and 50 state-level re-hearings of FCC decisions.

Thank you for your time.