

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS BELL TELEPHONE COMPANY	§	
	§	
Complainant	§	DOCKET NO.12-0182
	§	
v.	§	
	§	
HALOWIRELESS, INC.,	§	
	§	
Respondent	§	

**HALO WIRELESS, INC.’S
OBJECTIONS TO REBUTTAL TESTIMONY OF DR. JAMES
ZOLNIEREK**

Halo Wireless, Inc. (“Halo”) hereby objects to and moves to strike the proposed rebuttal testimony of Dr. James Zolnierек, as follows:

I. Legal Standards

Under Illinois law, the rules of evidence and privilege generally must be followed in Commission proceedings. 5 ILCS 100/10-40; 83 Ill. Admin Code § 200.610; see also, e.g. Ill. R. Evid. 401-402 (regarding relevance), 403 (regarding prejudicial and cumulative evidence), 701-705 (regarding expert and lay opinions), 801-805 (regarding hearsay), 1001-1008 (regarding the best evidence rule). The sole exception to this principle is that evidence not admissible under the rules of evidence may be admitted if, and only if, it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. 5 ILCS 100/10-40; 83 Ill. Admin Code § 200.610.

II. Reservation of Objections

Halo hereby requests any data or other information underlying Dr. Zolnierек’s testimony (to the extent no previously provided). Halo reserves the right to make any additional objections that may be appropriate after review of such information.

III. Specific Objections to Lines 153-158

Halo objects that this testimony merely repeats and incorporates the testimony and work product of Mark Neinast, which is objectionable for the reasons discussed in Halo's separate objections thereto.

IV. Specific Objections to Lines 160-172

To the extent Dr. Zolnierек testifies that Halo has an obligation to identify or limit traffic, such testimony constitutes legal conclusions that are neither helpful nor relevant and that Dr. Zolnierек is admittedly not qualified to provide. Furthermore, to the extent that Dr. Zolnierек's testimony could be considered expert opinion, the testimony lacks foundation establishing its reliability.

V. Specific Objections to Lines 174-181

Halo objects that Dr. Zolnierек's testimony constitutes legal conclusions that are neither helpful nor relevant and that Dr. Zolnierек is admittedly not qualified to provide. Furthermore, to the extent that Dr. Zolnierек's testimony could be considered expert opinion, the testimony lacks foundation establishing its reliability.

VI. Specific Objections to Lines 208-219

To the extent that this testimony incorporates or relies on the testimony and work product of Mr. Neinast, it is objectionable for the reasons discussed in Halo's objections to Mr. Neinast's testimony. In addition, to the extent Dr. Zolnierек testifies that Halo has an obligation to identify or limit traffic, such testimony constitutes legal conclusions that are neither helpful nor relevant and that Dr. Zolnierек is admittedly not qualified to provide. Furthermore, to the extent that Dr. Zolnierек's testimony could be considered expert opinion, the testimony lacks foundation establishing its reliability.

VII. Specific Objections to Lines 221-256

Halo objects that Dr. Zolnierек's testimony constitutes legal conclusions that are neither helpful nor relevant and that Dr. Zolnierек is admittedly not qualified to provide. Furthermore, to the extent that Dr. Zolnierек's testimony could be considered expert opinion, the testimony lacks foundation establishing its reliability.

VIII. Specific Objections to Lines 258-267

Halo objects that Dr. Zolnierек's testimony constitutes legal conclusions that are neither helpful nor relevant and that Dr. Zolnierек is admittedly not qualified to provide. Furthermore, to the extent that Dr. Zolnierек's testimony could be considered expert opinion, the testimony lacks foundation establishing its reliability.

IX. Specific Objections to Lines 269-275

Halo objects that Dr. Zolnierек's testimony constitutes legal conclusions that are neither helpful nor relevant and that Dr. Zolnierек is admittedly not qualified to provide. Furthermore, to the extent that Dr. Zolnierек's testimony could be considered expert opinion, the testimony lacks foundation establishing its reliability.

X. Conclusion

For the reasons discussed above, Halo respectfully requests that the Commission enter an order sustaining Halo's objections and striking the rebuttal testimony of Dr. Zolnierек.

Respectfully submitted,

/s/ Jennifer M. Larson (6/1/12)

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing objections has been served on the following via e-mail on this the 1st day of June, 2012:

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