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-12-0349-PCO-TP ISSUED: July 5, 2012

ORDER GRANTING IN PART AND DENYING IN PART HALO WIRELESS INC.'S MOTION TO COMPEL DISCOVERY

On June 19, 2012, Halo Wireless, Inc. (Halo) filed a Motion to Compel Discovery Responses to Halo's First Set of Interrogatories, Requests for Admission and Requests for Production of Documents (Motion to Compel) from Bellsouth Telecommunications, LLC d/b/a AT&T Florida (AT&T). Halo's Motion requests that I compel AT&T to respond to Halo's Interrogatories Nos. 2, 6, and 11, and Halo's Requests for Admission Nos. 1 - 4, 6, 10, 11, and 15 – 21. On June 26, 2012, AT&T filed a Response in Opposition to Halo's Motion to Compel (Response in Opposition).

Given the detailed and fact specific analysis necessary to determine whether to compel a party to respond to discovery requests, I believe it is appropriate to address each specific request separately. Accordingly, I will go through each of Halo's requests individually, with my ruling contained therein.

INTERROGATORY NO. 2
Identify all Documents which you reviewed prior to filing the Complaint.

Halo's Motion to Compel

Halo contends that AT&T erroneously objects that this interrogatory is vague, ambiguous, overly broad, and/or irrelevant. Halo states that the information it seeks is relevant to the subject matter of the issues in this proceeding and is narrowly tailored to AT&T's claims. Halo avers that the interrogatory is reasonably calculated to lead to the discovery of admissible evidence, is not overbroad, vague or ambiguous.

In support thereof, Halo first alleges AT&T has failed to quantify how this interrogatory is "overly broad" and AT&T's objection should be overruled on this basis alone. Halo then alleges that this interrogatory is not overly broad and is tailored narrowly to the specific issues of the complaint. This information is relevant to the fair and full resolution of this case, maintains Halo, and can be answered without excessive effort.

Halo further states that with respect to Interrogatory No. 2, AT&T claims any response would be privileged and "protected by the work product doctrine...." However, contends Halo, under Florida Rule of Civil Procedure (F.R.C.P.) 1.280(b)(5):

> When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

Halo alleges AT&T has made no attempt to "describe the nature of the documents, communications, or things not produced or disclosed" as it is required to do, and instead, merely makes a casual reference to the work product doctrine without any further explanation. Halo concludes that this is clearly not compliant with the Florida Rules of Civil Procedure and cannot serve as an appropriate basis for refusing to respond. Therefore, concludes Halo, AT&T's objection on this ground should be overruled and it should be ordered to provide a full response to this interrogatory.

AT&T's Response in Opposition

AT&T contends that a party that propounds discovery needs to make reasonably clear what it is asking for, and that Halo failed to do that with this interrogatory. AT&T states that: "the interrogatory asks AT&T Florida to identify 'all documents which you reviewed prior to filing the Complaint,' and that [t]aken at face value, that means each and every document that any employee or representative of AT&T Florida reviewed, regardless of the subject matter, at any time before July 25, 2011, which is when the Complaint was filed." AT&T maintains that this is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence AT&T avers that "potentially thousands of employees or representatives of AT&T Florida or its affiliated companies reviewed myriad documents in the weeks, months and years before July 25, 2011, the vast majority of which had nothing to do with this case." AT&T maintains that without context, scope or limitations of any sort, this interrogatory "is the ultimate fishing expedition." AT&T alleges that discovery rules "do not require AT&T Florida to guess what Halo meant," and that AT&T "is entitled to take Halo's discovery requests at face value."

AT&T states that it also objects to Interrogatory No. 2 since it is neither relevant to the subject matter of this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. AT&T states that "Halo does not even try to explain how the information could be used in this proceeding. Instead, Halo merely asserts, as a general proposition and without a word of explanation, that the information it seeks is relevant."

Analysis and Ruling

On its face, this interrogatory is clearly overly broad, and I do not see how it is "narrowly tailored to AT&T's claims." Accordingly, Halo's Motion to Compel a response to its Interrogatory No. 2 is DENIED.

INTERROGATORY NO. 6
Define "end point" as used by AT&T and provide the source of the definition.

Halo's Motion to Compel

Halo contends that AT&T erroneously objects that this interrogatory is vague, ambiguous, overly broad, and/or irrelevant. Halo states that the information it seeks is relevant to the subject matter of the issues in this proceeding and is narrowly tailored to AT&T's claims. Halo avers that the interrogatory is reasonably calculated to lead to the discovery of admissible evidence, is not overbroad, vague or ambiguous.

In support thereof, Halo first alleges AT&T has failed to quantify how the interrogatory is overly broad and its objection should be overruled on this basis alone. Halo then alleges that this interrogatory is not overly broad and is tailored narrowly to the specific issues of the complaint. This information is relevant to the fair and full resolution of this case, maintains Halo, and can be answered without excessive effort.

Halo goes on to maintain that Interrogatory No. 6 is neither vague nor ambiguous. Under F.R.C.P. 1.340(b), interrogatories are "not objectionable because an answer to the interrogatory involves an opinion or contention that relates to fact or calls for a conclusion...." That rule further clarifies that "[a] party shall respond to such an interrogatory by giving the information the party has and the source on which the information is based." This is exactly what Interrogatory No. 6 does, maintains Halo, and AT&T must provide a full response.

Halo states that Interrogatory No. 6 seeks AT&T's opinion on the definition of "end point" and the basis of such an opinion, which is material to AT&T's claim that Halo's traffic is "wireline" in nature. Halo alleges that AT&T supports its objection with the statement that "to the best of AT&T Florida's knowledge, AT&T has not used the term 'end point' in this proceeding, with the exception of reference to use of that term by Halo." However, maintains Halo, AT&T's own witness, Mark Neinast, twice refers to the term "end-point" in his direct testimony, without reference to Halo's use of the term.[1] Halo concludes that objection is invalid and should be overruled.

AT&T's Response in Opposition

AT&T argues that this interrogatory is "vague and ambiguous because of the absence of context." AT&T maintains that "end point" can mean many things, and then speculates on some of the possible meanings Halo could have had in mind, concluding that "[i]nstead, Halo again left AT&T Florida to guess what Halo had in mind."

AT&T also objects on the ground that "it had not, to the best of its knowledge, used the term 'end point' in this proceeding, with the exception of a reference to a use of that term by Halo." With respect to Halo's assertion that AT&T witness Neinast used the term "end point" AT&T asserts that "Halo can not use a Motion to Compel as a vehicle to rehabilitate the failures in its underlying request." AT&T contends that, "[i]f Halo wanted to ask what Mr. Neinast

[1] Neinast Direct Testimony, at Page 12, Lines 13-14 and Page 14, Line 1

meant by 'end-point' in those two instances ... the way to get the answer is obvious: ask Mr. Neinast at hearing."

Analysis and Ruling

On its face, this interrogatory appears narrowly tailored and can be concisely answered. It is clear that AT&T can provide a definition of the term "end point" and a reference to the source of the definition. Accordingly, Halo's Motion to Compel a response to Interrogatory No. 6 is GRANTED.

INTERROGATORY NO. 11

Describe in detail every step you contend Halo should have taken to avoid delivering intrastate "wireline" (as you define that term) "originated" (as you define that term) calls to AT&T.

Halo's Motion to Compel

Halo contends that AT&T erroneously objects that this interrogatory is vague, ambiguous, overly broad, and/or irrelevant. Halo states that the information it seeks is relevant to the subject matter of the issues in this proceeding and is narrowly tailored to AT&T's claims. Halo avers that the interrogatory is reasonably calculated to lead to the discovery of admissible evidence, is not overbroad, vague or ambiguous.

In support thereof, Halo alleges AT&T has failed to quantify how the interrogatory is overly broad and its objection should be overruled on this basis alone. Halo then alleges that this interrogatory is not overly broad and is tailored narrowly to the specific issues of the complaint. This information is relevant to the fair and full resolution of this case, maintains Halo, and can be answered without excessive effort.

AT&T's Response in Opposition

AT&T alleges that "Halo does not say anything in its Motion about why AT&T Florida should be required to respond to Interrogatory 11." AT&T maintains that one state commission, as well as the staffs of three other state commissions, have concluded that Halo breached its interconnection agreements with AT&T by delivering traffic that did not originate through wireless transmitting and receiving facilities. AT&T contends that "Halo did not do that accidentally. Rather, it made no effort to comply with the contract." AT&T maintains that Interrogatory 11 "asks AT&T Florida to describe in detail what Halo should have done in order to avoid breaching its contract with AT&T Florida," which is irrelevant.

AT&T goes on to aver that it answered the interrogatory, by stating that it had not identified "steps Halo should have taken in order to avoid sending wireline-originated traffic to AT&T Florida." AT&T states that, as "[t]he purpose of discovery is to get at existing information, AT&T Florida cannot properly be required to create information in order to provide it to Halo."

Analysis and Ruling

As argued by AT&T, the purpose of discovery is to ensure all parties to a dispute have access to all existing information, not otherwise privileged. Discovery can not be used to compel a party to create information. As phrased, it appears that Halo is seeking to have AT&T create a "roadmap" for compliance with the ICA. While AT&T could choose to take such an action, I do not believe it is appropriate for AT&T to be compelled to do so in order to respond to discovery during a proceeding which is based upon an alleged breach of an ICA. Accordingly, Halo's Motion to Compel a response to Interrogatory No. 11 is DENIED.

REQUEST FOR ADMISSIONS NO. 1
It is possible for a single communication to involve more than one "origination" point (as you define that term).

Halo's Motion to Compel

Halo alleges that AT&T has refused to provide responses to Requests For Admissions (RFAs) Nos. 1 through 4, 6, 10, 11, and 15 through 21 because the requests call for legal conclusions. However, maintains Halo, an objection on this basis is not proper. Halo states that F.R.C.P. 1.370(a) provides that "[a] party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not object to the request on that ground alone; the party may deny the matter or set forth reasons why the party cannot admit or deny it, subject to rule 1.380(c)." Therefore, maintains Halo, it is entirely valid for Halo to ask AT&T to admit a proposition that would ultimately bear on the resolution of the case. Halo concludes that AT&T Florida's objection must be overruled and it should admit or deny Requests for Admission Nos. 1 through 4, 6, 10, 11, and 15 through 21.

In addition, Halo avers that AT&T has also refused to furnish responses to Requests for Admission Nos. 1, 10, 11, 15, and 16 on the ground that the requests are vague or "nonsensical." Halo maintains that AT&T Florida is incorrect, as "it is obvious that the above RFAs are clearly stated and can be answered with a simple admission or denial, with a brief explanation if needed." Halo states that F.R.C.P. 1.370 provides a straightforward procedure for responding to requests for admission, and that AT&T's refusal to provide any response to these requests "is merely a ploy to avoid making admissions or denials that are inconvenient and supportive of Halo's legal positions." Halo argues that the Requests for Admissions "are coherent" and Halo is entitled to admissions or denials from AT&T Florida; therefore, concludes Halo, the objections must be overruled.

AT&T's Response in Opposition

AT&T states that "'[c]ommunication' can mean many things, and the parties have used the term with nuanced and sometimes differing meanings in their ongoing litigation in Florida and elsewhere. Accordingly, AT&T Florida's first objection to this Request for Admission is that its use of the undefined term 'communication' renders it vague and ambiguous." AT&T avers that "it made its objection very specific by explaining precisely why it is vague and ambiguous," instead of using "boilerplate."

AT&T alleges that "Halo's motion utterly fails" to address the objection. AT&T quotes Halo's Motion to Compel, and states Halo's bare assertion is insufficient. AT&T maintains that "having explained precisely why this particular interrogatory (sic) is vague, Halo needed to give at least some explanation why it is not, rather than merely asserting that AT&T Florida is obviously wrong." AT&T further avers that it objects to this Request for Admission "on the ground that it sought a legal conclusion," and references its Response to Request for Admission No. 2.

Analysis and Ruling

As phrased, this request is vague, ambiguous, and requires speculation. Furthermore, what constitutes an "origination point" is at issue in this case; however, I do not read this request as asking for a factual admission, but rather a legal conclusion. Accordingly, Halo's Motion to Compel a response to its Request for Admissions No. 1 is DENIED.

REQUEST FOR ADMISSIONS NO. 2
If Transcom is an end user, the Transcom related calls Halo delivers to AT&T in Florida fall within the definition of "Local Traffic" as defined in Section 1.0. of the ICA.

Halo's Motion to Compel

Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition

AT&T asserts that Request for Admissions No. 2 asks a purely legal question, which has "nothing to do with getting at any real-world facts, or at how the law applies to such facts." AT&T states that Halo argues AT&T's objection is improper "because a party cannot refuse to answer an RFA on the ground that it 'presents a genuine issue for trial.'" AT&T maintains this is not its objection; rather, AT&T objects that the Request for Admission asks a pure question of law. AT&T avers this "is an entirely different matter, and because it is an entirely different matter, neither of the two cases that Halo cites in support of its position has anything to do with AT&T Florida's objection."

AT&T then goes on to detail its arguments why the two cases cited by Halo in its Motion to Compel are inapplicable. In short, states AT&T, "while Halo is correct that an RFA is not objectionable merely because it is poses the ultimate question in the case, or a question that presents a genuine issue for trial, that has nothing to do with AT&T Florida's objection, which is that RFA 2 asks a purely legal question." AT&T maintains "the law with respect to that objection is clear: While a party can be required to admit or deny a proposition of fact, or of application of law to the facts of the case, a party cannot be required to respond to an RFA that asks a purely legal question."

Analysis and Ruling

By its plain wording, Halo is asking AT&T to agree to an interpretation of contract language. This is plainly different from asking for an admission of fact, or an admission that a clear legal principle applies to the facts in this case. Because Halo is seeking a legal

interpretation of contract language at issue in this docket, Halo's Motion to Compel AT&T's response to Request for Admissions No. 2 is DENIED.

REQUEST FOR ADMISSIONS NO. 3
If Transcom is an end user, the Transcom-related calls Halo delivers to AT&T in Florida are consistent with the usage contemplated by the definition of "Local Interconnection" in Section I.E. of the ICA.

Halo's Motion to Compel
Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition
AT&T refers to it's argument for Request for Admissions No. 2, and maintains that "Halo does not dispute, and cannot dispute, that RFA 3 sets forth a purely legal conclusion."

Analysis and Ruling
As I determined for Request for Admissions No. 2, Halo is asking AT&T to admit to a legal conclusion, that is, how the language of the ICA is to be construed. Accordingly, Halo's Motion to Compel AT&T's response to Request for Admissions No. 3 is DENIED.

REQUEST FOR ADMISSIONS NO. 4
If Transcom is an end user, Halo is in compliance with the ICA Amendment provision requiring that its traffic "originates through wireless transmission and receiving facilities before Carrier delivers traffic to AT&T for termination."

Halo's Motion to Compel
Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition
AT&T refers to it's argument for Request for Admissions No. 2, and maintains that "Halo does not dispute, and cannot dispute, that RFA 4 sets forth a purely legal conclusion."

Analysis and Ruling
As I found with Halo's Requests for Admissions Nos. 2 and 3, Halo is seeking AT&T's agreement with a legal conclusion. Accordingly, as stated above, Halo's Motion to Compel AT&T's response to Request for Admissions No. 4 is DENIED.

REQUEST FOR ADMISSIONS NO. 6
When a call "originates" (as defined by you) in IP format and stays in IP format until it is converted to "TDM" by Halo prior to handoff to AT&T in Florida then the call "originates on the Public Switched Telephone Network at Halo's Base Station."

Halo's Motion to Compel
Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition

AT&T refers to it's argument for Request for Admissions No. 2, and maintains that "Halo does not dispute, and cannot dispute, that RFA 6 sets forth a purely legal conclusion."

Analysis and Ruling

After consideration, this request appears to ask for a legal conclusion. As I have previously found, the term "originate" or "originates" is a legal one. Accordingly, Halo's Request for Admissions No. 6 seeks a legal conclusion and is DENIED.

REQUEST FOR ADMISSIONS NO. 10
AT&T contends its affiliate that provides voice over Internet Protocol (VoIP) service in association with U-Verse is not a telecommunications carrier.

Halo's Motion to Compel

Halo first refers back to its argument under Request for Admissions No. 1. Halo further alleges that AT&T "has refused to provide admissions or denials that are responsive; the responses merely state that AT&T has never before announced a position on the RFAs, but totally omit the requested admission or denial." Halo maintains that it did not seek to know whether AT&T Florida had ever before asserted that its affiliate that provides VoIP service is or is not a telecommunications carrier or an enhanced service provider, but instead, "seek for AT&T to admit or deny these propositions here, for this proceeding."

Halo further argues that AT&T is "attempting to avoid furnishing inconvenient information with evasive responses to questions not asked." Halo states that under F.R.C.P. 1.370(a), "[a]n answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless that party states that that party has made reasonable inquiry and that the information known or readily obtainable by that party is insufficient to enable that party to admit or deny." Therefore, maintains Halo, AT&T is not entitled to refuse to provide responses to these Requests for Admissions merely because "AT&T Florida has made no contention" regarding whether its affiliate is a telecommunications carrier or an enhanced service provider.

Halo alleges that AT&T's objections do not state that it has "made reasonable inquiry" into the matters raised by the Request for Admissions, nor has AT&T stated that the responsive information "is insufficient to enable [it] to admit or deny." Instead, avers Halo, AT&T has failed to fully respond to these requests as required by the Florida Rules of Civil Procedure and it must be ordered to provide responsive answers.

AT&T's Response in Opposition

AT&T states that Halo's Motion to Compel "does not even address the relevance objection." AT&T, however, states that it has responded to Request for Admissions No. 10: "[t]o the extent the import of the last sentence of the Response may not be entirely clear to Halo, it is a denial: AT&T Florida does not contend that the referenced affiliate is a telecommunications carrier, or that it is not a telecommunications carrier. AT&T Florida has

made, and makes, neither contention, and cannot properly be required to make a contention solely in order to respond to Halo's discovery request."

Analysis and Ruling

Upon review, this request appears to be seeking a simple fact; that is, what AT&T Florida's contends is the status of an affiliate. To the extent that AT&T is aware of and able to assert the position of its affiliate, AT&T is directed to answer this request. Therefore, Halo's Motion to Compel AT&T's response to Request for Admissions No. 10 is GRANTED.

REQUEST FOR ADMISSIONS NO. 11
AT&T contends its affiliate that provides VoIP service in association with U-Verse is an Enhanced Service Provider, as defined by the FCC.

Halo's Motion to Compel

Halo refers to its argument made for Request for Admissions No. 10.

AT&T's Response in Opposition

AT&T states that its discussion of Request for Admissions No. 10 applies to Request for Admissions No. 11 as well.

Analysis and Ruling

As I ruled with respect to Request for Admissions No. 10, to the extent that AT&T is aware of and able to assert its affiliate's position, AT&T is directed to answer this request. Therefore, Halo's Motion to Compel AT&T's response to Request for Admissions No. 11 is GRANTED.

REQUEST FOR ADMISSIONS NO. 15
An end user cannot be an "intermediate switching point" in a call.

Halo's Motion to Compel

Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition

AT&T refers to its argument for Request for Admissions No. 2. In addition, AT&T argues that "Halo does not dispute, and cannot dispute, that RFA 15 sets forth a purely legal conclusion. In addition, the Motion does not address, and Halo therefore waived its right to address, AT&T Florida's second objection. The RFA's use of 'intermediate switching point,' in quote marks, implies an undisclosed source of the quote."

Analysis and Ruling

As pointed out by AT&T, the use of the words "intermediate switching point" implies this is a term of art or a term with a precise definition. In addition, as I have ruled above, the term "end user" is a matter that has a legal definition, and is at issue in this docket. Accordingly, I find that Halo is seeking a legal conclusion from AT&T, and Halo's Motion to Compel responses from AT&T to Request for Admissions No. 15 is DENIED.

REQUEST FOR ADMISSIONS NO. 16
An end user can be an "intermediate switching point" in a call.

Halo's Motion to Compel
Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition
AT&T states that "[t]he discussion of RFA 10 (sic) applies to RFA 11 as well."

Analysis and Ruling
This request is the inverse of Halo's Request for Admissions No. 15, discussed above. Accordingly, my ruling on Request for Admissions No. 15 applies here, and Halo's Motion to Compel AT&T's response to Request for Admissions No. 16 is DENIED.

REQUEST FOR ADMISSIONS NO. 17
If the calls in issue do not "originate" on Halo's network, then the calls in issue meet the definition of "Intermediary Traffic" in Section I.C. of the ICA.

Halo's Motion to Compel
Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition
AT&T refers to its discussion of Request for Admissions No. 2, and adds "Halo does not dispute, and cannot dispute, that RFA 17 sets forth a purely legal conclusion."

Analysis and Ruling
As I ruled in Halo's Request for Admissions Nos. 2 and 3, in Request for Admissions No. 17, Halo is seeking AT&T's interpretation of contract language contained in the Interconnection Agreement. Interpretation of contract language is a legal matter, and therefore, Halo's request calls for a legal conclusion. Accordingly, Halo's Motion to Compel AT&T's response to Request for Admissions No. 17 is DENIED.

REQUEST FOR ADMISSIONS NO. 18
For the calls that AT&T asserts constitute a breach, Halo is providing "telephone exchange service" as defined in §153(54) of the Communications Act.

Halo's Motion to Compel
Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition
AT&T refers to its discussion of Request for Admissions No. 2, and adds "Halo does not dispute, and cannot dispute, that RFA 18 sets forth a purely legal conclusion."

Analysis and Ruling

By its plain wording, Halo is seeking a legal conclusion, that is the application of a legal definition contained in Federal law. Accordingly, Halo's Motion to Compel AT&T's response to Request for Admissions No. 18 is DENIED.

REQUEST FOR ADMISSIONS NO. 19
For the calls that AT&T asserts constitute a breach, Halo is providing "exchange access service" as defined in §153(20) of the Communications Act.

Halo's Motion to Compel

Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition

AT&T refers to its discussion of Request for Admissions No. 2, and adds "Halo does not dispute, and cannot dispute, that RFA 19 sets forth a purely legal conclusion."

Analysis and Ruling

As I ruled in Request for Admissions No. 18, by its plain wording, Halo is seeking a legal conclusion as to the application of a legal definition contained in Federal law. Accordingly, Halo's Motion to Compel AT&T's response to Request for Admissions No. 19 is DENIED.

REQUEST FOR ADMISSIONS NO. 20
For the calls that AT&T asserts constitute a breach, Halo is providing "telephone toll service" as defined in §153(55) of the Communications Act.

Halo's Motion to Compel

Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition

AT&T refers to its discussion of Request for Admissions No. 2, and adds "Halo does not dispute, and cannot dispute, that RFA 19 sets forth a purely legal conclusion."

Analysis and Ruling

As I ruled in Requests for Admissions Nos. 18 and 19, by its plain wording, Halo is seeking a legal conclusion as to the application of a legal definition contained in Federal law. Accordingly, Halo's Motion to Compel AT&T's response to Request for Admissions No. 20 is DENIED.

REQUEST FOR ADMISSIONS NO. 21
For the calls that AT&T asserts constitute a breach, Halo is providing "Interconnected VoIP Service" as defined in §153(25) of the Communications Act.

Halo's Motion to Compel

Halo refers to its argument made for Request for Admissions No. 1.

AT&T's Response in Opposition

AT&T refers to its discussion of Request for Admissions No. 2, and adds "Halo does not dispute, and cannot dispute, that RFA 19 sets forth a purely legal conclusion."

Analysis and Ruling

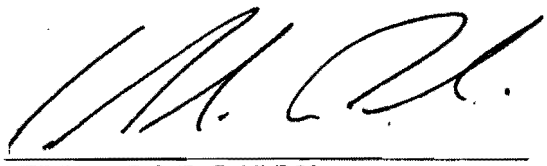
As I ruled in Requests for Admissions Nos. 18 through 20, by its plain wording, Halo is seeking a legal conclusion as to the application of a legal definition contained in Federal law. Accordingly, Halo's Motion to Compel AT&T's response to Request for Admissions No. 21 is DENIED.

Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer that Halo Wireless, Inc.'s Motion to Compel Discovery Responses is Granted in part and Denied in part, as detailed in the body of this Order. It is further

ORDERED that for those Requests which I order AT&T Florida to respond, AT&T shall provide such responses no later than 1:00 p.m. on Tuesday, July 10, 2012.

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 5th day of July, 2012.



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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.

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.

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.