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Sent: Tuesday, June 19, 2012 3:39 PM
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Subject: Docket 110234-TP - Halo Wireless, Inc.'s Objections to and Motion to Strike Direct and Rebuttal Test. of Neinast
Attachments: 110234 Halo Motion to Strike Neinast Testimony.pdf

Electronic Filing

a. Person responsible for this electronic filing:

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b. Docket No. 110234-TP

In re: Bellsouth Telecommunications, LLC d/b/a AT&T Florida v. Halo Wireless, Inc.

c. Document being filed on behalf of Halo Wireless, Inc.

d. There are a total of 39 pages.

e. The document attached for electronic filing is Halo Wireless, Inc.'s Objections to and Motion to Strike Direct and Rebuttal Testimony of Mark Neinast.

Thank you for your cooperation.

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DOCUMENT NUMBER-DATE

04019 JUN 19 2012

FPSC-COMMISSION CLERK

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

FILED: JUNE 19, 2012

HALO WIRELESS, INC.'S OBJECTIONS TO AND MOTION TO STRIKE DIRECT AND REBUTTAL TESTIMONY OF MARK NEINAST

Halo Wireless, Inc. ("Halo") hereby objects to and moves to strike the proposed Direct Testimony and Rebuttal Testimony of Mark Neinast as follows:

I. Legal Standards

Under Florida law, "[i]rrelevant, immaterial, or unduly repetitious evidence shall be excluded" from proceedings in which the substantial interests of the parties are at issue. § 120.569(g), Fla. Stat. (2011). Other evidence shall be admissible, but only if it is "of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs." § 120.569(g), Fla. Stat. (2011). Furthermore, opinion testimony that amounts to a conclusion of law cannot be properly received in evidence. See McKesson Medication Management, LLC v. Slavin, 75 So.3d 308, 312 (3rd DCA 2011); Thundereal Corp. v. Sterling, 368 So. 2d 923, 928 (Fla. 1st DCA 1979) (quoting 31 Am.Jur.2d Expert and Opinion Evidence, § 69 (1967)).

II. Summary and General Objections

Halo objects to Mr. Neinast's testimony for the reason that most his testimony is self-serving and speculative in nature. The probative value, if any, is far outweighed by its prejudicial value.

In addition, to the extent that Mr. Neinast purports to provide fact testimony, Halo objects to the entirety of such testimony on the grounds that BellSouth Telecommunications, LLC d/b/a

AT&T Florida (“AT&T”) has failed to lay a foundation for Mr. Neinast’s personal knowledge or reliance on admissible hearsay that would be relied on by a reasonably prudent person. To the extent Mr. Neinast provides expert testimony, Halo objects that AT&T has failed to establish its reliability. See Ramirez v. State, 651 So.2d 1164, 1167 (Fla.1995) (Noting that courts have not hesitated to reject expert testimony concerning subjects that have not been proven to be sufficiently reliable.). In particular, Halo objects to Mr. Neinast’s expert testimony as to the rating and billing of traffic (which testimony purports to be based on the premise that telephone numbers are appropriate and reliable determinants for call rating and billing) in its entirety, as such testimony is not based on reliable principles and methods (*i.e.* it is methodologically unreliable) and is not based on a reliable reasoning process for connecting any such methodology to the traffic at issue. Likewise, because AT&T has failed to establish that Mr. Neinast’s methodology is reliable, Halo also objects to any exhibits created by him or based on his work.

III. Specific Objections to Direct Testimony, Lines 3:9-4:2

Mr. Neinast’s testimony regarding the allege breach of the ICA is a conclusion of law that is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast’s opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational

assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

IV. Specific Objections to Direct Testimony, Lines 4:3-12

Mr. Neinast's purported statements provide neither fact testimony nor expert testimony, but instead state conclusions of law. As such, this testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

V. Specific Objections to Direct Testimony, Lines 4:13-5:5

Mr. Neinast's purported statements provide neither fact testimony nor expert testimony, but instead state conclusions of law. As such, this testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

VI. Specific Objections to Direct Testimony, Lines 5:7-11

Halo objects that Mr. Neinast's statements merely incorporate the testimony of Mr. McPhee, and are inadmissible for the reasons discussed in Halo's objections thereto. In addition, to the extent that Mr. Neinast's statement could be intended as his own substantive testimony, such statements are inadmissible hearsay, rely on inadmissible hearsay, and provide neither fact testimony nor expert testimony, but instead state conclusions of law. Halo further objects that the documents referenced are the best evidence of their contents.

VII. Specific Objections to Direct Testimony, Lines 5:12-17

Mr. Neinast's purported statements provide neither fact testimony nor expert testimony, but instead state conclusions of law. As such, this testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

VIII. Specific Objections to Direct Testimony, Lines 6:1-7

Mr. Neinast's purported statements provide neither fact testimony nor expert testimony, but instead state conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person.

Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

IX. Specific Objections to Direct Testimony, Lines 6:8-7:3

Mr. Neinast provides states conclusions of law, which are inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

X. Specific Objections to Direct Testimony, Lines 7:4-15

Mr. Neinast provides states conclusions of law concerning the meaning or construction of the ICA. As such, this testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements

are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XI. Specific Objections to Direct Testimony, Lines 8:1-12

To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

XII. Specific Objections to Direct Testimony, Lines 9:2-5

Halo objects because the written document referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written document violate the parol evidence rule.

XIII. Specific Objections to Direct Testimony, Lines 9:6-10:3

Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person.

Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XIV. Specific Objections to Direct Testimony, Lines 10:4-17

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data

underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XV. Specific Objections to Direct Testimony, Lines 10:18-11:8

Halo objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XVI. Specific Objections to Direct Testimony, Lines 11:9-12

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

XVII. Specific Objections to Direct Testimony, Lines 12:3-12

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XVIII. Specific Objections to Direct Testimony, Lines 12:13-13:2

Halo objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent

person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

XIX. Specific Objections to Direct Testimony, Lines 13:3-14:4

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XX. Specific Objections to Direct Testimony, Lines 14:6-13

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXI. Specific Objections to Direct Testimony, Lines 14:14-20

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to

provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXII. Specific Objections to Direct Testimony, Lines 15:1-13

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on

admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field..

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

XXIII. Specific Objections to Direct Testimony, Lines 15:14-19

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXIV. Specific Objections to Direct Testimony, Lines 16:1-13

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, this testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion,

Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXV. Specific Objections to Direct Testimony, Lines 16:14-17

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

XXVI. Specific Objections to Direct Testimony, Lines 16:18-17:2

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

XXVII. Specific Objections to Direct Testimony, Lines 17:3-11

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Furthermore, his statements are not admissible for the reason that his claims are self-serving, speculative in nature and demonstrably untrue. The probative value, if any, is far outweighed by its prejudicial value.

XXVIII. Specific Objections to Direct Testimony, Lines 17:12-19

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative in nature. The probative value, if any, is far outweighed by its prejudicial value.

XXIX. Specific Objections to Direct Testimony, Lines 17:20-18:20

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, this testimony is inadmissible. Halo also objects that this

testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXX. Specific Objections to Direct Testimony, Lines 18:21-19:4

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXXI. Specific Objections to Direct Testimony, Lines 19:5-15

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

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XXXII. Specific Objections to Direct Testimony, Lines 19:16-20:15

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

XXXIII. Specific Objections to Direct Testimony, Lines 20:16-21:12

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements

are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXXIV. Specific Objections to 21:13-22:2

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXXV. Specific Objections to Direct Testimony, Lines 22:3-10

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to

provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXXVI. Specific Objections to Direct Testimony, Lines 22:11-23:2

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XXXVII. Specific Objections to Direct Testimony, Lines 23:10-18

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

XXXVIII. Specific Objections to Direct Testimony, Lines 23:19-22:5

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

XXXIX. Specific Objections to Direct Testimony, Lines 24:6-25:14

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XL. Specific Objections to Direct Testimony, Lines 25:15-247:4

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XLI. Specific Objections to Direct Testimony, Lines 27:5-17

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XLII. Specific Objections to Direct Testimony, Lines 28:1-13

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo

objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XLIII. Specific Objections to Direct Testimony, Lines 28:14-19

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XLIV. Specific Objections to Direct Testimony, Lines 29:4-30:13

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XLV. Specific Objections to Direct Testimony, Lines 30:14-31:9

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony

is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. Halo further objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XLVI. Specific Objections to Direct Testimony, Lines 31:10-18

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data

underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XLVII. Specific Objections to Direct Testimony, Lines 32:1-4

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

XLVIII. Specific Objections to Direct Testimony, Lines 32:5-11

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on

reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

XLIX. Specific Objections to Direct Testimony, Lines 32:12-17

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

L. Specific Objections to Direct Testimony, Lines 32:18-24

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

LI. Specific Objections to Direct Testimony, Lines 33:1-18

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. Halo further objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

LII. Specific Objections to Direct Testimony, Lines 33:19-34:11

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo

objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

LIII. Specific Objections to Direct Testimony, Lines 34:12-20

Mr. Neinast provides neither fact testimony based upon his personal knowledge, but instead offers inadmissible hearsay. As such, Halo objects that this is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

LIV. Specific Objections to Rebuttal Testimony, Lines 1:12-2:23

Mr. Neinast's statements provide neither fact testimony nor expert testimony, but instead state conclusions of law that are not helpful, relevant, or reliable and that Mr. Neinast is not qualified to provide. In addition, the documents referenced by Mr. Neinast are the best evidence of their terms, and the parol evidence rule bars AT&T from seeking to controvert them. Furthermore, his statements are inadmissible hearsay. The probative value, if any, is far outweighed by its prejudicial value.

LV. Specific Objections to Rebuttal Testimony, Lines 4:9-20

Mr. Neinast's statements provide neither fact testimony nor expert testimony, but instead state conclusions of law that are not helpful, relevant, or reliable and that Mr. Neinast is not qualified to provide. In addition, the documents referenced by Mr. Neinast are the best evidence of their terms, and the parol evidence rule bars AT&T from seeking to controvert them. The probative value, if any, is far outweighed by its prejudicial value.

LVI. Specific Objections to Rebuttal Testimony, Lines 5:1-6:10

Mr. Neinast's statements provide neither fact testimony nor expert testimony, but instead state conclusions of law that are not helpful, relevant, or reliable and that Mr. Neinast is not qualified to provide. Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field. In addition, the documents referenced by Mr. Neinast are the best evidence of their terms, and the

parol evidence rule bars AT&T from seeking to controvert them. Moreover, to the extent Mr. Neinast incorporates his direct testimony, such testimony is objectionable for reasons discussed in Halo's objections to such testimony.

LVII. Specific Objections to Rebuttal Testimony, Lines 6:14-7:5

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

LVIII. Specific Objections to Rebuttal Testimony, Lines 7:6-18

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Moreover, to the extent Mr. Neinast incorporates the direct testimony of J. Scott McPhee, such testimony is objectionable for reasons discussed in Halo's objections to such testimony. Alternatively, to the extent Mr. Neinast is his own offering expert testimony as to the nature of Halo's traffic, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

LIX. Specific Objections to Rebuttal Testimony, Lines 8:1-19

Mr. Neinast provides neither fact testimony nor expert testimony, but instead states conclusions of law. As such, the testimony is inadmissible. Halo also objects that this testimony

is not helpful to the trier of fact, is not relevant, is not testimony that Mr. Neinast is qualified to provide, and is not testimony that would be relied on by a reasonably prudent person. To the extent that this testimony is intended as fact testimony, rather than an expert opinion, Halo objects that AT&T has failed to lay a foundation of personal knowledge and/or reliance on admissible hearsay that would be relied on by a reasonably prudent person. Alternatively, to the extent that such testimony is intended as an expert opinion, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

Halo further objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. Furthermore, his statements are not admissible for the reason that his claims are self-serving and speculative. The probative value, if any, is far outweighed by its prejudicial value.

LX. Specific Objections to Rebuttal Testimony, Lines 8:20-10:9

To the extent Mr. Neinast incorporates his direct testimony, such testimony is objectionable for reasons discussed in Halo's objections to such testimony. Alternatively, to the extent Mr. Neinast is his own offering expert testimony as to the nature of Halo's traffic, Halo objects that the testimony lacks foundation establishing: the basis for Mr. Neinast's opinion and the underlying data supporting his opinion; that the testimony is based on reliable principles and

methodology; that the testimony is based on reliable foundational assumption and data; that the testimony is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

LXI. Specific Objections to Rebuttal Testimony, Lines 12:14-13:4

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

LXII. Specific Objections to Rebuttal Testimony, Lines 13:5-14

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule. In addition, to the extent Mr. Neinast incorporates his direct testimony and call studies, such evidence is objectionable for reasons discussed in Halo's objections to such evidence.

LXIII. Specific Objections to Rebuttal Testimony, Lines 13:16-14:15

Mr. Neinast's statements provide neither fact testimony nor expert testimony, but instead state conclusions of law that are not helpful, relevant, or reliable and that Mr. Neinast is not qualified to provide. In addition, the documents referenced by Mr. Neinast are the best evidence of their terms, and the parol evidence rule bars AT&T from seeking to controvert them. Furthermore, his statements are inadmissible hearsay. The probative value, if any, is far outweighed by its prejudicial value. Moreover, to the extent Mr. Neinast incorporates the direct testimony of J. Scott McPhee, such testimony is objectionable for reasons discussed in Halo's objections to such testimony.

LXIV. Specific Objections to Rebuttal Testimony, Lines 15:1-8

Mr. Neinast's statements provide neither fact testimony nor expert testimony, but instead state conclusions of law that are not helpful, relevant, or reliable and that Mr. Neinast is not qualified to provide. In addition, the documents referenced by Mr. Neinast are the best evidence of their terms, and the parol evidence rule bars AT&T from seeking to controvert them. Furthermore, his statements are inadmissible hearsay. The probative value, if any, is far outweighed by its prejudicial value. Moreover, to the extent Mr. Neinast incorporates the direct testimony of J. Scott McPhee, such testimony is objectionable for reasons discussed in Halo's objections to such testimony.

LXV. Specific Objections to Rebuttal Testimony, Lines 15:11-14

Mr. Neinast's testimony is objectionable for the same reasons discussed in Halo's objections to the direct testimony he references.

LXVI. Specific Objections to Rebuttal Testimony, Lines 17:10-13

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

LXVII. Specific Objections to Rebuttal Testimony, Lines 17:16-18:10

Mr. Neinast's statements provide neither fact testimony nor expert testimony, but instead state conclusions of law that are not helpful, relevant, or reliable and that Mr. Neinast is not qualified to provide. In addition, the documents referenced by Mr. Neinast are the best evidence of their terms, and the parol evidence rule bars AT&T from seeking to controvert them. Furthermore, his statements are inadmissible hearsay. The probative value, if any, is far outweighed by its prejudicial value.

LXVIII. Specific Objections to Rebuttal Testimony, Lines 20:17-21

to the extent Mr. Neinast incorporates his direct testimony, such testimony is objectionable for reasons discussed in Halo's objections to such testimony.

LXIX. Specific Objections to Rebuttal Testimony, Lines 23:15-23

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

LXX. Specific Objections to Rebuttal Testimony, Lines 27:11-28:3

Halo objects because the written documents referred to by Mr. Neinast are the best evidence of the purported facts adduced by Mr. Neinast, and statements offered to contradict the terms of the written documents violate the parol evidence rule.

LXXI. Specific Objections to Rebuttal Testimony, Lines 28:4-15

Mr. Neinast's statements provide neither fact testimony nor expert testimony, but instead state conclusions of law that are not helpful, relevant, or reliable and that Mr. Neinast is not qualified to provide. In addition, the documents referenced by Mr. Neinast are the best evidence of their terms, and the parol evidence rule bars AT&T from seeking to controvert them. Furthermore, his statements are inadmissible hearsay. The probative value, if any, is far outweighed by its prejudicial value.

LXXII. Specific Objections to Exhibits

Halo objects to Mr. Neinast's exhibits as hearsay, to the extent that they are offered to prove the truth of any matter asserted therein.

Halo further objects that Exhibits MN-3 through MN-8 are based on and summarize expert opinion, and AT&T has failed to lay a foundation showing their admissibility, including:

the basis for opinion and the underlying data supporting his opinion; that the document is based on reliable principles and methodology; that the document is based on reliable foundational assumption and data; that the document is based on reliable reasoning that would allow the methodology to be applied to the foundational data underlying his testimony; and that the data relied upon is of the type that is reasonably relied upon by experts in the appropriate field.

LXXIII. Conclusion

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

Dated this 19th day of June, 2012.

Respectfully submitted,

/s/ Gary V. Perko

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion to strike has been served on the following by electronic mail and/or by directing same to the following business addresses through first-class, United States mail, postage prepaid, on this the 19th day of June, 2012:

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s/ Gary V. Perko
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