

John Staurulakis, Inc. Amended Transmittal No. 191 – September 16, 2015
Skyline Telephone Membership Corporation, SAC 230501 (North Carolina)

DESCRIPTION AND JUSTIFICATION

1. Introduction

With this filing John Staurulakis, Inc. (“JSI”) is filing corrected annual ICC-CAF Tariff Review Plan (“TRP”) forms to include additional intrastate terminating access revenues to the Base Period Revenue (“BPR”) used in the calculations of ICC-CAF for Skyline Telephone Membership Corporation (alternatively “Skyline” or “Company”).

2. Description of Corrected Tariff Review Plans

The corrected TRPs include Halo intrastate terminating access revenues for which a petition was filed by Skyline.¹ On June 24, 2015 the Federal Communications Commission (alternatively “FCC” or “Commission”) granted Skyline a limited waiver to permit the Company to include additional intrastate terminating access revenues in its BPR that were not filed in each of the preceding ICC-CAF TRPs.² Corrected TRPs are provided for years 2012-13, 2013-14, 2014-15 and 2015-16.

Skyline has met each of the five conditions the Commission has set forth in its Order:

- First, that it terminated all of the intrastate access and if applicable, reciprocal compensation traffic (compensable traffic), sent to it by Halo for termination during FY 2011 that it seeks to add to its BPR calculations. This condition will limit BPR adjustments to reflect traffic for which compensable services that were actually provided.
- Second, that it billed Halo for such compensable traffic during FY 2011 or before the close of the next regular billing cycle in Fiscal Year 2012 for the amounts to be added to

¹ Petition of North State Telephone Company dba North State Communications, Randolph Telephone Membership Corporation, and Skyline Telephone Membership Corporation for Limited Waiver of 47 C.F.R. § 51.917(b)(7)(ii) of the Commission’s Rules, WC Docket No. 10-90 et al., (filed Jan. 23, 2015).

² Connect America Fund, WC Docket No. 10-90, Developing a Unified Inter-carrier Compensation Regime, CC Docket No. 01-92, Petitions for Waiver of Section 51.917(b)(7) of the Commission’s Rules, Order, DA 15-739 rel. June 24, 2015 (“Order”).

BPR calculations. This condition is designed to limit BPR adjustments to those relating to revenue that Petitioners attempted to collect from Halo for the provision of compensable traffic during FY 2011.

- Third, that a court or state regulatory agency of competent jurisdiction (e.g., a state commission) has made a finding of liability against Halo regarding each category of the requested compensation for such traffic.
- Fourth, that it filed a timely claim in the Halo bankruptcy case that requests compensation for such traffic, and any BPR adjustment for a study area resulting from this Order does not exceed the terminating portion of such petitioner's bankruptcy claim for that study area. These requirements are intended to prevent Petitioners from taking actions now to increase their BPR adjustments beyond the amounts of their claims in the Halo bankruptcy case.
- Fifth, that its BPR adjustment amounts do not include any interest, late payment fees, collection fees, or attorney fees, in order to ensure that BPR adjustments are limited to revenue associated with compensable traffic, and do not include other types of revenue. In addition, such certification must confirm that the revenues supporting the requested BPR adjustments are not already included in the BPR calculations.

Listed below is a summary of Halo intrastate terminating access revenue to be included in this filing as well as additional items to verify that the conditions were met. The state commission finding of liability is provided at Exhibit 1.

| Intrastate Terminating Base Period Revenues (As filed 6/16/2015) | Halo Petition Per FCC DA 15-739 that meets Third FCC Condition | How Met | Revised Intrastate Terminating Access Base Period Revenue |
|---|---|------------------|--|
| \$965,668 | \$187,642 | State Commission | \$1,153,310 |

| Interstate Access Amount of Claim | Intrastate Access Amount of Claim | Local Amount of Claim | Late Payment/ Interest/ Collection/ Attorney Fees Amount of Claim | Total Amount of Claim | Bankruptcy Intrastate Filing Amount | Does BPR Adjustment Exceed Petitioner's Claim? |
|--|--|------------------------------|--|------------------------------|--|---|
| \$36,432 | \$187,642 | \$0 | \$0 | \$224,074 | \$187,642 | No – Meets Test |

3. Conclusion

Skyline has met and certified to each of the five conditions set forth in the Commission's Order. The Commission should accept the corrected BPR and Eligible Recovery adjustments.

**STATE OF NORTH CAROLINA
RURAL ELECTRIFICATION AUTHORITY
RALEIGH**

DOCKET NO. TMC-8, Sub 1

BEFORE THE NORTH CAROLINA RURAL ELECTRIFICATION AUTHORITY

| | | |
|--|---|-------|
| In the Matter of |) | |
| Wilkes Telephone Membership Corporation, |) | |
| Complainant |) | ORDER |
| v. |) | |
| Halo Wireless, Inc., |) | |
| Respondent |) | |

1. This matter came before the North Carolina Rural Electrification Authority on the Complaint and Petition of Wilkes Telephone Membership Corporation against Halo Wireless, Inc. for Nonpayment, filed on September 9, 2014.
2. The North Carolina Rural Electrification Authority (hereinafter "the Authority") is an agency of the State of North Carolina established with the purpose of securing electric and telephone service for the rural districts of the State. N.C. Gen. Stat. §§ 117-1, 117-2 and 117-29 (2013).
3. The Authority is a State commission as defined in the Telecommunications Act of 1996, 47 U.S.C. § 153(48)(2014). The Authority has direct jurisdiction over telephone member corporations.
4. Wilkes Telephone Membership Corporation (hereinafter "Wilkes") is a North Carolina telephone membership corporation created pursuant to Chapter 117 of the General Statutes.
5. The Complaint and Petition filed by Wilkes requests a decision from the Authority on Halo Wireless Inc.'s (hereinafter "Halo") liability to Wilkes for the switched access and wireless traffic it terminated to Wilkes's network from December 2010 to August 2012.
6. Wilkes's Complaint requests that the Authority confirm that Halo was liable to Wilkes for intrastate access and Commercial Mobile Radio Service ("CMRS") charges. Wilkes seeks this confirmation so that

Wilkes can request FCC approval of its Petition for Limited Waiver filed on April 14, 2014. In its FCC Petition, Wilkes seeks permission to include revenues associated with fiscal year 2011 that were billed to Halo, although not collected, due to an apparent scheme of Halo and Halo's ultimate bankruptcy.

7. On August 7, 2014, the FCC released an order in WC Docket No. 10-90 and CC Docket No. 01-92, in which the FCC granted in part "subject to identified conditions, two petitions seeking waiver of certain recovery rules. These waivers would allow the requesting carriers to include in their recovery calculations funds they were unable to collect from a carrier customer due to an access avoidance scheme and subsequent bankruptcy".¹
8. The FCC order further stated, "We believe that incumbent LECs, upon a showing of good cause, should be permitted to include in their recovery calculations revenues associated with traffic eligible for compensation that was terminated during FY 2011 and that otherwise meets the criteria spelled out in our revenue recovery rules".²
9. In this order, the FCC granted the waiver requests provided each petitioner certified the following:
 - (a) It terminated all intrastate access traffic sent to it by Halo during FY 2011 that it seeks to add to its base period revenue (BPR) calculations;
 - (b) It billed Halo intrastate access charges for such traffic during FY 2011;
 - (c) The appropriate state regulatory agency makes a finding of liability regarding the compensation for such traffic;
 - (d) It filed a timely claim in the Halo bankruptcy case requesting compensation for such traffic; and
 - (e) It did not include in its BPR adjustment amounts any interest, late payment fees, collection fees, or attorney fees.³

¹ *Connect America Fund et al.*, WC Docket No. 10-90 and CC Docket No. 01-92, Order, FCC 14-121 (rel. Aug. 7, 2014)("Halo Order") at 2.

² *Id.*

³ *Id.* at 5.

10. On September 9, 2014, Wilkes filed its Complaint and Petition against Halo with the Authority.
11. On September 19, 2014 the Authority issued an order serving the complaint filed by Wilkes on Halo and requesting that Halo file a response or satisfy the demands of the complainant by October 9, 2014.
12. Halo filed for Chapter 11 bankruptcy on August 8, 2011 and then Chapter 7 bankruptcy on July 13, 2012. The bankruptcy trustee for Halo contacted the Authority on Friday, October 3, 2014 to inform the Authority that Halo would not file comments in connection with the Wilkes Complaint and Petition.
13. Halo did not, in fact, file comments in the requested timeframe.
14. Wilkes's Complaint and Petition states as follows:
 - (a) Halo operated an access arbitrage scheme and refused to pay for legitimate interstate access, intrastate access, and CMRS traffic. This prevented Wilkes from being able to include the amounts billed to Halo in its federal Base Period Revenue for fiscal year 2011.⁴
 - (b) Wilkes initially began terminating Halo's traffic in December 2010 and quickly saw the traffic volume grow.⁵
 - (c) Wilkes accessed its SS7 calling records and analyzed the traffic with Halo's operating company number of 429F to determine the proper jurisdiction of each other. Wilkes was able to see what volume of traffic transmitted by Halo was originated from CMRS carriers and what was originated from landline carriers and was then able to determine what landline calls were intrastate and what calls were interstate.⁶
 - (d) Wilkes billed Halo based on whether it was CMRS or landline and the jurisdiction of landline calls.⁷

⁴ *Complaint and Petition of Wilkes Telephone Membership Corporation Against Halo Wireless, Inc. for Nonpayment*, Docket No. TMC-8, Sub 1 at 2 (filed September 9, 2014).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

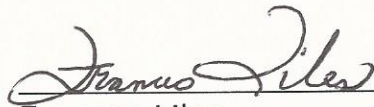
- (e) Wilkes used the same rates it used to bill for other wireless, intrastate access, and interstate access calls.⁸
 - (f) Wilkes billed Halo for traffic it sent during the period of January 2011 through August 2012.⁹
 - (g) The total amount billed for 21 months of traffic sent by Halo totaled almost \$476,000.¹⁰
 - (h) Halo did not pay any invoices.¹¹
15. Nine other state Public Utility Commissions found Halo liable to incumbent LECs for disputed intrastate access charges.¹²
16. Wilkes's Complaint and Pétition is unopposed by Halo. The allegations in Wilkes's Complaint and Petition are accepted as true.

The Authority concludes and it is therefore ordered that Halo is liable to Wilkes for billed intrastate switched access and CMRS charges for usage between January 2011 and August 2012.

ISSUED BY THE ORDER OF THE AUTHORITY.

This the 10th day of November, 2014.

The North Carolina Rural
Electrification Authority



Frances Liles
Administrator

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 4.

¹² *Id.* at 9. *See Halo Order* at 14.