

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON EXCHANGE)	DOCKET NO. UT-031472
CARRIER ASSOCIATION, ET AL.)	
)	
Complainants,)	ORDER NO. 05
)	
v.)	
)	PREHEARING ORDER
LOCALDIAL CORPORATION,)	MODIFYING PROCESS AND
)	PROCEDURAL SCHEDULE
Respondent.)	
.....)	

1 **PREHEARING CONFERENCE:** On September 4, 2003, the United States District Court, Western District of Washington at Tacoma, Judge Ronald B. Leighton presiding, entered its Stay Order and Order of Referral to WUTC [Washington Utilities and Transportation Commission], in Case No. C03-5012, a civil complaint proceeding styled *Washington Exchange Carrier Association, et al., Plaintiffs, v. LocalDial Corporation, an Oregon Corporation, Defendant*. The issues concern the regulatory status of certain services offered by LocalDial in Washington.

2 **PARTIES:** Richard A. Finnigan, attorney, represents the Washington Exchange Carrier Association (WECA). Arthur Butler and Lisa Rackner, Ater Wynne LLP, Seattle and Portland, represent LocalDial Corporation (LocalDial). Brooks E. Harlow, Miller Nash LLP, Seattle, Washington, represents the Broadband Communications Association of Washington. Mary B. Tribby and Letty S.D. Friesen, AT&T Law Department, Denver, Colorado, represent AT&T Communication of the Pacific Northwest (AT&T). Robert Cromwell, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Office of Washington Attorney General. Jonathan Thompson, Assistant Attorney General, represents the Commission’s regulatory staff (“Commission Staff” or “Staff”).

- 3 **MODIFIED PROCESS AND PROCEDURAL SCHEDULE:** The Commission conducted its first prehearing conference on October 20, 2003, before Chairwoman Marilyn Showalter, Commissioner Patrick J. Oshie, and Administrative Law Judge Dennis J. Moss. As discussed in the Commission's Order No. 01, Prehearing Conference, entered on October 24, 2003, the Commission expected to address the issues in this proceeding on cross-motions for summary determination grounded in stipulated facts concerning the precise nature of the service LocalDial offers. However, by letter dated December 31, 2003, the parties informed the Commission that despite the expenditure of considerable effort, they have been unable to reach agreement and believe that they cannot reach a stipulation concerning all facts they consider material to the issues.
- 4 The Commission conducted a second prehearing conference before ALJ Moss on January 12, 2004, to hear from the parties concerning the need to modify the previously established process and to establish a revised procedural schedule to accommodate the modified process. The parties informed the presiding officer that they wished to proceed by having an evidentiary hearing at which witnesses who prefile testimony will be presented for cross-examination and examination by the Bench.
- 5 The parties propose that their witnesses file simultaneous direct testimony on February 27, 2004, and simultaneous response testimony on March 29, 2004. Considering other pending proceedings, the parties requested that evidentiary hearings be held in May 2004. No one objected to the proposed dates and they are workable from the Commission's perspective. Accordingly, the Commission adopts the revised process and procedural schedule shown on Appendix A to this Order.

6 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this statement, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this prehearing conference order will control further proceedings in this matter, subject to Commission review.**

DATED at Olympia, Washington, and effective this 15th day of January 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS J. MOSS
Administrative Law Judge

APPENDIX A

**REVISED PROCESS AND
PROCEDURAL SCHEDULE
DOCKET NO. UT-031472**

EVENT	DATE
Referral from Federal District Court filed with the Commission	September 15, 2003
First Prehearing Conference	October 20, 2003
Deadline for IP requests; deadline for timely petitions to intervene	November 3, 2003
Objections to petitions to intervene	November 10, 2003
Responses to objections	November 17, 2003
Simultaneous Direct Testimony	February 27, 2004
Simultaneous Response Testimony	March 29, 2004
Evidentiary Hearings	May 3-5, 2004
Simultaneous Initial Briefs	TBD
Simultaneous Reply Briefs	TBD