

BEFORE THE
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

WASHINGTON EXCHANGE CARRIERS
ASSOCIATION, *et al.*,

Complainants,

v.

LOCALDIAL CORPORATION, an Oregon
corporation,

Respondent.

Docket No. UT-031472

**DECLARATION OF ARTHUR A.
BUTLER IN SUPPORT OF
LOCALDIAL'S MOTION TO SET
APRIL 9, 2004, AS THE DATE FOR
RESPONDING TO
COMPLAINANTS' MOTION FOR
SUMMARY DISPOSITION**

I, ARTHUR A. BUTLER, under penalty of perjury under the laws of the State of Washington, hereby declare and state as follows:

1. I am an attorney with the law firm of Ater Wynne, LLP, and am counsel for LocalDial Corporation ("LocalDial"), the respondent in the above-captioned action before the Washington Utilities and Transportation Commission (the "Commission").

2. On February 27, 2004, LocalDial was served with Complainants' Motion for Summary Disposition. On that same date, both WECA and LocalDial filed and served their direct testimony in the case. WECA filed and served the testimony of three witnesses: Robert Smith, Terry Martin and Craig Phillips. LocalDial filed and served the direct testimony of William Page Montgomery.

3. WAC 480-07-380(2)(c) provides that a party that answers a motion for summary disposition must file its answer and any cross-motion for summary disposition within 20 days after the motion is served, unless the Commission establishes by order a different specific date for a response to be filed.

4. Since the key issue with regard to a motion for summary disposition is whether there is no genuine issue as to any material fact, it would be appropriate and most efficient for the Commission and LocalDial if the response to Complainants' Motion for Summary Disposition was not due until after the responsive testimony is filed. At that point, the parties will have had the full opportunity to present their view of the salient facts, and the Commission would be in the position of making a meaningful determination of whether there are genuine issues of material fact that remain in dispute.

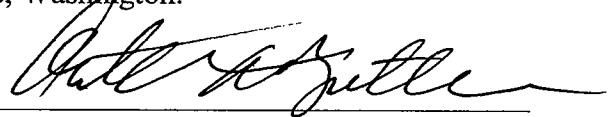
5. The schedule adopted for this case provides that response testimony be filed on March 29, 2004. Hearings are set to begin on May 5, 2004. Accordingly, it would be appropriate to set the date for responding to Complainants' motion after March 29, 2004, but sufficiently in advance of the hearings so that the Commission has a meaningful opportunity to act on the motion before the hearings start. LocalDial respectfully requests that it be given until April 9, 2004, to file its response to Complainants' motion. That would give LocalDial a reasonable time to evaluate the testimony and exhibits that have been filed by all parties and brief the issues. It would also allow the Commission a full three weeks to evaluate the motion and the response.

4. LocalDial is also the subject of a complaint before the Oregon Public Utility Commission ("OPUC") concerning matters similar to those at issue in this action. The deadline for filing direct testimony in the OPUC matter is April 5, 2004. If the date for a response to Complainants' Motion for Summary Disposition were set at April 9, 2004, LocalDial would have

a reasonable time to respond without interfering with the filing of testimony in the OPUC proceeding.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

DATED this 9th day of March, 2004, at Seattle, Washington.



Arthur A. Butler

CERTIFICATE OF SERVICE

I hereby certify that I have this 9th day of March, 2004, served the true and correct original, along with the correct number of copies, of the foregoing document upon the WUTC, via the method(s) noted below, properly addressed as follows:

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I hereby certify that I have this 9th day of March, 2004, served a true and correct copy of the foregoing document upon parties of record, via the method(s) noted below, properly addressed as follows:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 9th day of March, 2004, at Seattle, Washington.

