Suite 5450 601 Union Street Seattle, WA 98101-2327 206-623-4711 Fax 206-467-8406

JOEL R. PAISNER Email jrp@aterwynne.com

### **APRIL 15, 2004**

### VIA E-MAIL & HAND DELIVERY

Carol J. Washburn
Executive Secretary
Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

Re: WECA, et al. v. LocalDial

WUTC Docket No. UT-031472

Localdial's Motion to Strike Verizon Northwest Inc.'s Response to

Complainants' Motion for Summary Disposition

Dear Ms. Washburn:

Enclosed for filing in the above-referenced docket are the original and 16 copies of Localdial's Motion to Strike Verizon Northwest Inc.'s Response to Complainants' Motion for Summary Disposition. Copies of this document have also been sent to the parties on the attached Certificate of Service via the method(s) indicated therein.

If you have any questions, please feel free to contact me.

Sincerely,

Enclosure

cc: Parties of Record

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this 15th da	y of April, 2004, served the true and correct
original, along with the correct number of copies,	of the foregoing document upon the WUTC, vi
the method(s) noted below, properly addressed as	follows:

Carole Washburn Executive Secretary Washington Utilities and Transportation Commission 1300 S Evergreen Park Drive SW Olympia, WA 98504-7250	Hand Delivered U.S. Mail (first-class, postage prepaid) X Overnight Mail (UPS) Facsimile (360) 586-1150 X Email (records@wutc.wa.gov)
I hereby certify that I have this 15 <sup>th</sup> day of the foregoing document upon parties of record, via as follows:	f April, 2004, served a true and correct copy of a the method(s) noted below, properly addressed
Con Behalf Of Qwest:  Lisa A. Anderl Qwest Corporation 1600 7th Avenue, Room 3206 Seattle WA 98191 Confidentiality Status: Public  On Behalf Of Verizon: Charles H. Carrathers III Verizon Northwest Inc. 600 Hidden Ridge MC: HQE02H20 PO Box 152092 Irving TX 75015-2092 Confidentiality Status: Public	Hand Delivered  X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (206) 343-4040  X Email (lisa.anderl@qwest.com)  Hand Delivered X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (972) 718-0936 X Email (chuck.carrathers@verizon.com)
On Behalf Of Public Counsel:  Robert W. Cromwell Jr.  Attorney General of Washington Public Counsel Section 900 Fourth Avenue, Suite 2000, TB-14 Seattle WA 98164-1012  Confidentiality Status: Confidential	Hand Delivered  X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (206) 389-2058 X Email (RobertC1@atg.wa.gov)

Vonage:	Hand Delivered
Mr. Ronald W. Del Sesto Jr. Swidler Berlin Shereff Friedman, LLP 3000 K Street NW, Suite 300 Washington DC 20007-5116	X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (202) 424-7643 X Email (rwdelsesto@swidlaw.com)
Confidentiality Status: Public	
On Behalf Of Net2Phone & Vonage:	
Tamar E. Finn Swidler Berlin Shereff Friedman, LLP 3000 K Street NW, Suite 300 Washington DC 20007-5116	Hand Delivered  X U.S. Mail (first-class, postage prepaid)  Overnight Mail (UPS)  Facsimile (202) 424-7643  Email
Confidentiality Status: Public	
On Behalf Of WECA:  Richard A. Finnigan Law Office of Richard A. Finnigan 2405 Evergreen Park Drive SW, Suite B-1 Olympia WA 98502  Confidentiality Status: Confidential	Hand Delivered  X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (360) 753-6862 X Email (rickfinn@ywave.com)
On Behalf Of Covad Communications:	
Karen S. Frame Covad Communications Company 7901 Lowry Boulevard Denver CO 80230-6906  Confidentiality Status: Public	Hand Delivered  X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (720) 208-3350  X Email (kframe@covad.com)
On Behalf Of AT&T:	
Letty S. Friesen AT&T Communications of the Pacific Northwest Law Department 1875 Lawrence Street, Suite 1500 Denver CO 80202	Hand Delivered  X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (303) 298-6301 X Email (lfriesen@lga.att.com)
Confidentiality Status: Confidential	•
On Behalf Of BCAW:	
Brooks E. Harlow Miller Nash LLP 601 Union Street, Suite 4400 Seattle WA 98101-1367 Confidentiality Status: Confidential	Hand Delivered  X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (206) 622-7485  X Email (brooks.harlow@millernash.com)

On Behalf Of Sprint:		
William E. Hendricks III Sprint Communications Co. LP 902 Wasco Street A0412 Hood River OR 97031-3105 Confidentiality Status: Public		Hand Delivered U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (541) 387-9753 Email (tre.e.hendricks.iii@mail.sprint.com)
On Behalf Of Javelin:		
Andrew O. Isar Miller Isar, Inc. 7901 Skansie Avenue, Suite 240 Gig Harbor WA 98335  Confidentiality Status: Public		Hand Delivered U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (253) 851-6474 Email (aisar@millerisar.com)
On Behalf Of Integra:  Karen J. Johnson		Hand Delivered
Integra Telecom of Washington, Inc. 19545 NW Von Neumann Drive, Suite 200 Beaverton OR 97006-6906		U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (503) 748-1212 Email (karen.johnson@integratelecom.com
Confidentiality Status: Public		Zinan (karon.joinisonesintegraterecom.com)
On Behalf Of Focal & XO:  Gregory J. Kopta Davis Wright Tremaine LLP 1501 4th Avenue, Suite 2600 Seattle WA 98101-1688  Confidentiality Status: Public		Hand Delivered U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (206) 628-7699 Email (gregkopta@dwt.com)
On Behalf Of 8x8, Inc.:		
Christy C. Kunin Gray Cary Ware & Freidenrich LLP 1625 Massachusetts Avenue NW, Suite 300 Washington DC 20036-2247 Confidentiality Status: Public		Hand Delivered U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (202) 238-7701 Email (ckunin@graycary.com)
On Behalf Of Commission:		
Hon. Dennis J. Moss ALJ Washington Utilities and Transportation Commission PO Box 47250 Olympia WA 98504-7250	X 	Hand Delivered U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (360) 664-2654 Email (dennism@wutc.wa.gov)
Confidentiality Status: Confidential		

On Benaif Of Verizon:	
Timothy J. O'Connell	Hand Delivered
Stoel Rives LLP	X U.S. Mail (first-class, postage prepaid)
600 University Street, Suite 3600	Overnight Mail (UPS)
Seattle WA 98101-3197	Facsimile (206) 386-7500
Confidentiality Status: Public	X Email (tjoconnell@stoel.com)
On Behalf Of Level 3:	
Mr. Rogelio E. Pena	Hand Delivered
Peña & Associates, LLC	X U.S. Mail (first-class, postage prepaid)
1375 Walnut Street	Overnight Mail (UPS)
Suite 220	Facsimile (303) 415-0433
Boulder CO 80302	X Email (repena@boulderattys.com)
Confidentiality Status: Confidential	
On Behalf Of LocalDial:	
Lisa F. Rackner	Hand Delivered
Ater Wynne LLP	X U.S. Mail (first-class, postage prepaid)
222 SW Columbia, Suite 1800	Overnight Mail (UPS)
Portland OR 97201-6618	Facsimile (503) 226-0079
Confidentiality Status: Confidential	X Email (lfr@aterwynne.com)
On Behalf Of Vonage:	
John Rego	Hand Delivered
Vonage Holdings Corp.	X U.S. Mail (first-class, postage prepaid)
2147 Route 27	Overnight Mail (UPS)
Edison NJ 08817	Facsimile
	Email
Confidentiality Status: Public	
On Behalf Of Voice on the Net Coalition:	
Glenn S. Richards	Hand Delivered
Shaw Pittman	X U.S. Mail (first-class, postage prepaid)
2300 N Street NW	Overnight Mail (UPS)
Washington DC 20037-1128	Facsimile (202) 663-8007
Confidentiality Status: Public	X Email (glenn.richards@shawpittman.com
On Behalf Of 8x8, Inc.:	•
Michael A. Schneider	Hand Delivered
Gray Cary Ware & Freidenrich LLP	X U.S. Mail (first-class, postage prepaid)
701 Fifth Avenue, Suite 7000	Overnight Mail (UPS)
Seattle WA 98104-7044	Facsimile (206) 839-4801
Confidentiality Status: Public	X Email (mschneider@graycary.com)

On Behalf Of Javelin:	
John Schnelz Javelin, Inc. 2504 West Sammamish Pkwy SE Bellevue WA 98008  Confidentiality Status: Public	Hand Delivered  X U.S. Mail (first-class, postage prepaid)  Overnight Mail (UPS)  Facsimile (425) 696-0050  Email
On Behalf Of Net2Phone:	
Elana Shapochnikov Net2Phone Legal Department 520 Broad Street, 8th Floor Newark NJ 07102  Confidentiality Status: Public	Hand Delivered  X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (973) 439-3100  X Email (eshapo@net2phone.com)
On Behalf Of Worldcom, Inc. (MCI):	
Michel L. Singer Nelson WorldCom, Inc. 707 17th Street, Suite 4200 Denver CO 80202-3432	Hand Delivered  V.S. Mail (first-class, postage prepaid)  Overnight Mail (UPS)  Facsimile (303) 390-6333  Email (michel.singer_nelson@mci.com)
Confidentiality Status: Public	,
On Behalf Of Net2Phone & Vonage:  Michael Sloan Swidler Berlin Shereff Friedman, LLP 3000 K Street NW, Suite 300 Washington DC 20007-5116 Confidentiality Status: Public	Hand Delivered  X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (202) 424-7643 X Email (mcsloan@swidlaw.com)
On Behalf Of Pac-West Telecomm, Inc.:	
Ethan Sprague Pac-West Telecomm, Inc. 1776 W March Lane, Suite 250 Stockton CA 95207 Confidentiality Status: Public	Hand Delivered  X U.S. Mail (first-class, postage prepaid)  Overnight Mail (UPS)  Facsimile (209) 601-6528  X Email (esprague@pacwest.com)
On Behalf Of Staff:	•
Jonathan Thompson Attorney General of Washington Utilities & Transportation Division 1400 S Evergreen Park Drive SW PO Box 40128 Olympia WA 98504-0128 Confidentiality Status: Confidential	Hand Delivered  X U.S. Mail (first-class, postage prepaid) Overnight Mail (UPS) Facsimile (360) 586-5522 X Email (jthompso@wutc.wa.gov)

On Benaij Oj AT&I:	
Mary B. Tribby	Hand Delivered
AT&T Communications	X U.S. Mail (first-class, postage prepaid)
1875 Lawrence Street, Suite 1575	Overnight Mail (UPS)
Denver CO 80202	Facsimile (303) 298-6301
Confidentiality Status: Public	X Email (mbtribby@att.com)
On Behalf Of Net2Phone & Vonage:	
William B. Wilhelm Jr.	Hand Delivered
Swidler Berlin Shereff Friedman, LLP	X U.S. Mail (first-class, postage prepaid)
3000 K Street NW, Suite 300	Overnight Mail (UPS)
Washington DC 20007-5116	Facsimile (202) 424-7643
Confidentiality Status: Public	Email

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

Renfis

DATED this 15th day of April, 2004, at Seattle, Washington.

[Service Date: April 15, 2004]

## BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON EXCHANGE CARRIERS ASSOCIATION, et al.,

Complainants,

٧.

LOCALDIAL CORPORATION, an Oregon corporation,

Respondent.

Docket No. UT-031472

LOCALDIAL'S MOTION TO STRIKE VERIZON NORTHWEST INC.'S RESPONSE TO COMPLAINANTS' MOTION FOR SUMMARY DISPOSITION

### I. INTRODUCTION

- 1. LocalDial Corporation ("LocalDial"), by and through its attorneys of record, Ater Wynne LLP, hereby moves the Washington Utilities and Transportation Commission (the "Commission") to strike Verizon Northwest Inc.'s ("Verizon") response to Complainants' Motion for Summary Disposition ("Complainants' Motion").
- 2. LocalDial hereby requests that the Commission strike Verizon's response to Complainant's Motion because: (a) Verizon is not a party to the complaint filed by Complainants and, therefore, is not entitled to file a response; and (b) Verizon is not entitled to treat its response as an amicus brief. In support of this motion, LocalDial states as follows:

## II. FACTS AND LEGAL ARGUMENT

#### A. BACKGROUND

- 3. This matter is before the Commission on referral from the U.S. District Court, Western District of Washington, regarding *Washington Exchange Carrier Association*, et al., v. LocalDial Corporation (Case No. C03-5012). On September 4, 2003, the Federal Court entered its Stay Order and Order of Referral to WUTC.
- 4. On October 16, 2003, Verizon filed its Petition for Intervention with the Commission, in which Verizon sought to be named a party to this action. A copy of Verizon's Petition is attached hereto as Exhibit 1.
- 5. Approximately three weeks later, on November 5, 2003, Verizon filed a letter with the Commission requesting that it be granted interest party (*sic*) status and withdrew its Petition for Intervention. A copy of Verizon's letter, dated November 5, 2003, is attached hereto as Exhibit 2.
- 6. On November 14, 2003, the Commission entered its Order No. 03, Prehearing Order Concerning Intervenor and Interested Person Status ("Prehearing Order"). A copy of the Prehearing Order is attached hereto as Exhibit 3. For purposes of Complainants' complaint, the Prehearing Order clarified who would be a formal "party" and who would be considered an "interested person," or "IP." [See Prehearing Order, ¶¶ 3-4.]
- 7. The Prehearing Order also set forth the specific role interested persons would have in this proceeding. [See Prehearing Order, ¶¶ 4-5, p. 3, footnote 2.]

The Commission establishes a list of IPs in individual proceedings. IPs are entitled to receive documents served by the Commission during the course of the proceeding, including notices and orders, but are not parties.

[See Prehearing Order, p. 3, footnote 2.]

8. The Prehearing Order originally allowed for the filing of amicus briefs by interested persons, but only to the extent that the complaint before the Commission was resolved by stipulated facts. The Prehearing Order states:

DISCOVERY; PROTECTIVE ORDER: Only parties are entitled to discovery. Interested persons that may wish to file an amicus brief may subscribe to, and be bound by, the Protective Order in this proceeding for the *limited purpose* of obtaining access to any confidential information included in the stipulated facts upon which it is anticipated this proceeding will be determined. (*Emphasis added*.)

[See Prehearing Order, ¶5.]

- 9. On December 31, 2003, Complainants and LocalDial notified the Commission that they could not reach agreement as to the material stipulated facts. [See letter to the Commission from Arthur Butler, dated December 31, 2003.] As a result, a prehearing conference was held and on January 15, 2004, the Commission entered its Order No. 05 which included a procedural schedule to accommodate a hearing for the parties. [See Order No. 05, Prehearing Order Modifying Process and Procedural Schedule, dated January 15, 2004.]
- 10. On February 26, 2004, Complainants filed their Motion for Summary Disposition claiming no material facts were in dispute. [See Complainant's Motion for Summary Disposition, dated February 26, 2004.] Acting on a motion filed by LocalDial [see LocalDial's Motion to Set April 9, 2004, as the Date for Responding to Complainants' Motion for Summary Disposition, dated March 9' 2004], the Commission set April 9, 2004 as the date for parties to respond. [See Order No. 07, Granting Motion to Set April 9, 2004, as the Date for Responding to Complainants' Motion for Summary Determination, dated March 12, 2004.]
- 11. On April 9, 2004, Verizon filed a response to Complainant's Motion. [See Verizon's Response to WECA's Motion for Summary Disposition.] In its accompanying letter to the Commission, Verizon asserted that it is entitled to file such a response because it was granted

leave to file an amicus brief in the event the parties to the complaint entered stipulated facts. A copy of Verizon's letter from Timothy J. O'Connell, dated April 9, 2004, is attached hereto as Exhibit 4.

B. Verizon is an Interested Person and Not a Party to the Complaint and Its Response Is Not Properly Before The Commission

12. Verizon's recently filed response should be stricken and not considered by the

Commission when resolving Complainants' Motion for the following reasons:

13. First, although Verizon originally filed a petition to intervene as a party in this

proceeding, by the time the Prehearing Order was entered, Verizon had already withdrawn its

petition and, by order of the Commission, became an interest person. Because Complainants'

Motion is a dispositive motion, only parties are allowed to file responses. WAC 480-07-380(c)

states:

Response. A party that answers a motion for summary determination must file its answer and any cross-motion for summary determination within twenty days after the motion is served, unless the commission establishes by order a different specific date for a response to be filed. (Emphasis added.)

Verizon's self-styled pleading is in fact labeled a "response." Verizon should not be able to skirt the rules in order to file its "response."

14. Second, Verizon attempts to get around its status as an interested person by

claiming its response is to be treated as an amicus brief. [See Exhibit 4.] The Commission

authorized interested persons to file amicus briefs, solely in the event that the parties stipulate to

the facts. [See Prehearing Order, ¶5.] Thus, because the parties could not stipulate to facts,

Verizon is not entitled to file an amicus brief, or treat its response as an amicus brief.

15. Finally, Verizon's response itself seeks to expand the nature of the issues before

the Commission. It includes comments Verizon filed before the FCC in AT&T's Petition for

Declaratory Ruling, all in an unsworn format. Verizon attempts to equate LocalDial's services to those at issue before the FCC in AT&T's Petition. AT&T's network and its VoIP services are not before this Commission. This will serve to further expand the issues before the Commission raised by Complainants' complaint. Furthermore, in its original motion to intervene as a party, Verizon stated it would not expand the issues and claims before the Commission. [See Exhibit 1, ¶3.] If Verizon was limited to the issues before the Commission when it sought to be a party, the same limitation applies to Verizon as an interested person, and for that reason, Verizon's response should be disregarded.

#### III. CONCLUSION

16. Verizon's Response to Complainants' Motion should be stricken and not considered by the Commission. Verizon is not a party to this proceeding and as such has no right to file a response to Complainants' Motion. Verizon's response itself expands the issues before the Commission, and should not be considered. For the reasons stated above, the Commission should grant LocalDial's Motion to Strike Verizon's Response to Complainants' Motion for Summary Disposition.

RESPECTFULLY SUBMITTED this 15th day of April, 2004

ATER WYNNE LLP

Arthur A. Butler, WSBA #04678

Jøel R. Paisner, WSBA #16405

**8**01 Union Street, Suite 5450

Seattle, Washington 98101-2327

Tel: (206) 623-4711

Fax: (206) 467-8406

Email: aab@aterwynne.com

Attorneys for LocalDial Corporation

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3		
4	DECORE THE	
5	BEFORE THE	
6	WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION	
7	MACHINICTON EVOLUNOE	
8	WASHINGTON EXCHANGE ) CARRIER ASSOCIATION, et. al., ) Docket No. UT-031472	
9	Complainant, )	
10	) PETITION FOR v. ) INTERVENTION OF VERIZON ) NORTHWEST INC.	
11	LOCALDIAL CORPORATION, an ) Oregon Corporation, )	
12	Respondent.	
13	)	
14	Pursuant to WAC 480-09-430, Verizon, Northwest Inc. ("Verizon") petitions	
15	the Washington Utilities and Transportation Commission ("Commission") for leave	
16	to intervene in the above entitled docket.	
17		
18	I. CONTACT INFORMATION	
19	All communications with Verizon should be directed to the following	
	persons:	
20	Timothy J. O'Connell Kendall J. Fisher	
21	600 University Street, Suite 3600	
22		
23	Facsimile: (206) 386-7500 Email: tjoconnell@stoel.com	
24	kjfisher@stoel.com	

VERIZON PETITION TO INTERVENE - 1 Seattle-3199847.1 0010932-00016 2

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## II. BACKGROUND INFORMATION

Verizon provides telecommunications services to customers throughout Washington, including intrastate switched access services and services to enhanced service providers and Internet service providers, similar to the to services provided by Washington Exchange Carrier Association member companies that are involved in this case. Verizon is, therefore, interested in the tariff interpretation, policy and other determinations the Commission may make in this matter.

## III. Scope of Participation

Verizon's intervention will not broaden the issues to be addressed, burden the record or delay the proceedings. Verizon is interested in ensuring that appropriate compensation is paid when non-local traffic originates or terminates on local exchange company networks, regardless of regulatory classification of the company using the network.

### IV. RELIEF REQUESTED

WHEREFORE, Verizon respectfully requests leave to intervene as a party to this proceeding, to have notice of and appear at the taking of testimony, and to be heard in person or by counsel on brief and at oral argument.

RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of October, 2003.

STOEL RIVES LLP

Timothy J. O'Connell, WSBA #15372

Kendall J. Fisher, WSBA #28855

Attorneys for Verizon Northwest Inc.

TIMOTHY J. O'CONNELL Direct (206) 386-7562 tjoconnell@stoel.com

November 5, 2003

## VIA U.S. MAIL

Ms. Carole J. Washburn, Executive Secretary Washington Utilities and Transportation Commission 1300 South Evergreen Park Drive SW P. O. Box 47250 Olympia, WA 98504-7250

Re: Docket No. UT-031472, WECA v. LocalDial

Dear Ms. Washburn:

On behalf of Verizon Northwest Inc. ("Verizon"), we respectfully request that Verizon be granted Interested Party status with respect to Docket No. UT-031472. Please send copies of all documents and notices filled in this proceeding to the following recipients:

Timothy J. O'Connell Stoel Rives LLC 600 University, Suite 3600 Seattle, WA 98101 tjoconnell@stoel.com Chuck Carrathers Verizon – Legal Department 600 Hidden Ridge, MC: HQE02H20 Irving, TX 75038 Chuck.Carrathers@verizon.com

Verizon filed a formal Petition For Intervention of Verizon Northwest Inc. in this Docket prior to the Pre-Hearing Conference. Please consider this letter the withdrawal of Verizon's petition.

Sincerely,

Timothy J. O'Connell

cc: Chuck Carrathers

## BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON EXCHANGE	) DOCKET NO. UT-031472
CARRIER ASSOCIATION, ET AL.	)
Complainants,	) ) ORDER NO. 03 )
v.	)
LOCALDIAL CORPORATION,	<ul><li>) PREHEARING ORDER</li><li>) CONCERNING INTERVENOR</li><li>) AND INTERESTED PERSON</li></ul>
Respondent.	) STATUS
• • • • • • • • • • • • • • • • • • • •	)

- 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
  Commission conducted a prehearing conference on October 20, 2003, before
  Chairwoman Marilyn Showalter, Commissioner Patrick J. Oshie, and
  Administrative Law Judge Dennis J. Moss.
- PARTIES: Richard A. Finnigan, attorney, represents the Washington Exchange Carrier Association (WECA). Arthur Butler and Lisa Rackner, Ater Wynne Hewitt Dodson & Skeritt, 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").<sup>1</sup>

- PETITIONS TO INTERVENE; REQUESTS FOR INTERESTED PERSON
  STATUS: The following persons filed petitions to intervene and subsequently confirmed that they wish to participate as parties:
  - AT&T Communications of the Pacific Northwest, Inc., and AT&T Local Services on behalf of TCG Seattle and TCG Oregon; and
  - 2. Broadband Communications Association of Washington

No party objects to either petition to intervene. The petitioners have demonstrated that they may have a substantial interest in the outcome of this proceeding and that their participation, which will not broaden the issues in this proceeding, is in the public interest.

- The following persons, some of whom previously filed petitions to intervene, now request status as interested persons ("IP"):<sup>2</sup>
  - Level 3 Communications, LLC;
  - 2. Javelin Inc.;
  - 3. Sprint;
  - 4. Net2Phone, Inc.;
  - 5. ICG Communications, Inc.;
  - 6. Vonage Holdings Corp.;

<sup>&</sup>lt;sup>1</sup> In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "ex parte wall" separating the Commissioners, the presiding ALJ, and the Commissioners' policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

- 7. Voice on the Net Coalition;
- 8. Verizon Northwest, Inc.;
- 9. MCI;
- 10. 8x8, Inc.;
- 11. Focal Communications Corporation
- 12. XO Washington, Inc. ("XO"); and
- 13. Qwest.

These persons all are granted status as Interested Persons and will be served with all Commission notices and orders entered in this proceeding. Interested Persons may obtain copies of any documents filed in this proceeding by accessing the Commission's web pages on the Internet at <a href="https://www.wutc.wa.gov/031472">www.wutc.wa.gov/031472</a>. Interested Persons may request parties to provide them with courtesy copies of any filings made in this proceeding.

- DISCOVERY; PROTECTIVE ORDER: Only parties are entitled to discovery. Interested persons that may wish to file an amicus brief may subscribe to, and be bound by, the Protective Order in this proceeding for the limited purpose of obtaining access to any confidential information included in the stipulated facts upon which it is anticipated this proceeding will be determined.
- 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 480-09-460(2) and WAC 480-09-760. Absent such objections, this prehearing order will control further proceedings in this matter, subject to Commission review.

<sup>&</sup>lt;sup>2</sup> The Commission establishes a list of IPs in individual proceedings. IPs are entitled to receive documents served by the Commission during the course of the proceeding, including notices and orders, but are not parties.

DATED at Olympia, Washington, and effective this \( \frac{1}{2} \) day of November 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DENNIS/J/MOSS

Administrative Law Judge



600 University Street, Suite 3600 Seattle, Washington 98101 main 206.624.0900 fax 206.386.7500

April 9, 2004

TIMOTHY J. O'CONNELL Direct (206) 386-7562 tjoconnell@stoel.com

### **VIA HAND DELIVERY**

Ms. Carole J. Washburn, Executive Secretary Washington Utilities & Transportation Commission 1300 S. Evergreen Park Drive S.W. Olympia, WA 98504-7250

Re:

WECA, et al. v. LocalDial Corporation WUTC Docket No. UT-031472

Dear Ms Washburn:

On behalf of Verizon Northwest Inc., an "interested party" in this proceeding, enclosed for filing in the above-referenced docket is Verizon's Response to WECA's Motion for Summary Disposition and 16 copies. This is filed as an amicus brief as contemplated in Order No. 3, Prehearing Order Concerning Intervenor and Interested Party Status, entered in this docket on November 14, 2003. A copy of this document has also been sent to the parties on the attached Certificate of Service.

Sincerely,

**Enclosures** 

cc:

Timothy J. O'Connell

Parties of Record

Oregon Washington

California

idaho