

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

**SUPPLEMENTAL DECLARATION  
OF WILLIAM PAGE MONTGOMERY  
IN SUPPORT OF LOCALDIAL'S  
RESPONSE TO STAFF'S MOTION  
FOR SUMMARY DISPOSITION**

I, WILLIAM PAGE MONTGOMERY, under penalty of perjury under the laws of the State of Washington, hereby declare and state as follows:

1. I am over the 21 years of age and I make this declaration on the basis of my personal knowledge, and if called upon to testify in this matter I could and would competently do so as set forth herein.

2. I submitted Direct Testimony in this proceeding on February 27, 2004, and Response Testimony in this proceeding on March 29, 2004, on behalf of LocalDial Corporation.

3. Subsequent to the submission of the Opening Testimony, the Federal Communications Commission (FCC) released an order determining that a Voice over Internet

Protocol (VOIP) service offered by AT&T was required to pay access charges at least prospectively.<sup>1</sup> The characteristics of AT&T's service described in the AT&T Declaratory Ruling differ in several respects from LocalDial's service. The AT&T Declaratory Ruling thus is not dispositive of the issues before the Commission.

4. The AT&T order states that with AT&T's service "[e]nd-user customers do not order a different service, pay different rates, or place and receive calls any differently than they do through AT&T's traditional circuit-switched long distance service; the decision to use its Internet backbone to route certain calls is made internally by AT&T." AT&T Declaratory Ruling ¶12. The FCC found that "[e]nd users place calls using the same method, 1+ dialing, that they use for calls on AT&T's circuit-switched long-distance network. Customers of AT&T's specific service receive no enhanced functionality by using the service." AT&T Declaratory Ruling ¶15. The FCC also noted that "based on the record before us, end users have received no benefit in terms of additional functionality or reduced prices." AT&T Declaratory Ruling ¶17.

5. LocalDial's service differs from the AT&T service in each of the respects cited by the FCC. LocalDial's customers must order a different service from the company in order to access its VOIP network. That network is used to transmit all traffic not just "certain calls." The customers must make two separate calls in order to use the service: one call to a local access number and a second dialed call in order to reach another party. The second call does not require the LocalDial customer to dial 1+. LocalDial's customers pay different rates from those charged by their actual long distance carrier, whose service is not displaced by

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<sup>1</sup> Petition for a Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges, WC Docket No. 02-361 *Order* FCC 04-97, April 21, 2004 (AT&T Declaratory Ruling).

LocalDial's secondary service. LocalDial's customers can and do receive substantially reduced long distance prices based upon LocalDial's \$20.00 per month flat-rate price. LocalDial can charge this low price in part because of the "enhanced functionality" provided by the company's VOIP gateway computers.

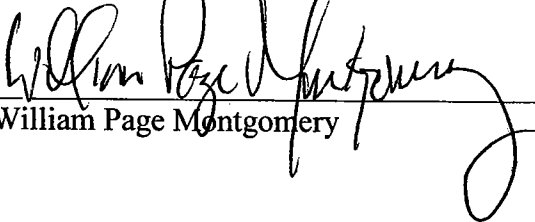
6. The conclusion of the AT&T Declaratory Ruling that the service in question is not an information service likewise does not apply to LocalDial's service. The FCC did not discuss the nature of the technology used by AT&T's service or whether any type of computer processing is involved with the technology. The FCC noted, "This order, however, addresses only AT&T's *specific* service, and that service does not involve a net protocol conversion and does not meet the statutory definition of an information service. If the service evolves such that it meets the definition of an information service, the Commission could revisit its decision in this order." AT&T Declaratory Ruling ¶ 13; emphasis supplied. My Opening Testimony demonstrates that LocalDial's technology offers multiple capabilities "for ...acquiring, storing, transforming, processing, retrieving, [and] utilizing...information via telecommunications," which in relevant part is the statutory definition of an information service. 47 U.S.C. 153 (20). I provided the specific technical references, in the form of internationally-adopted specifications, defining the capabilities. My Opening testimony further demonstrates that because of these capabilities, FCC rulings hold that there is a net protocol conversion between LocalDial's customer and the computing facility operated by LocalDial in the form of its VOIP gateway computers. Opening Testimony, pp. 31-32.

7. The FCC limited its Declaratory Ruling to the specific service "described by AT&T in this proceeding" (¶1) and narrowly "based on the record compiled in this

proceeding" (§10).<sup>2</sup> Therefore, notwithstanding the AT&T Declaratory Ruling, numerous factual issues specific to LocalDial remain for the Commission to resolve.

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

DATED this 22nd day of April, 2004, at Laguna Beach, California.

  
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William Page Montgomery

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<sup>2</sup> The FCC also stated that its order "in no way precludes the Commission from adopting a fundamentally different approach when it resolves the IP services rulemaking, or when it resolves the Intercarrier Compensation proceeding." *Id.*