

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

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

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 Staff's Motion for Summary Disposition ("Staff's Motion").

2. LocalDial hereby requests that the Commission strike Verizon's response to Staff'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 incorporates its arguments contained in LocalDial's Motion to Strike Verizon Northwest Inc.'s Response to Complainants' Motion for Summary Disposition filed with the Commission on April 16, 2004.

3. Verizon's response to LocalDial's original Motion to Strike does not fundamentally change the fact that pursuant to WAC 480-07-380(c) only parties to an action are entitled to file responses to motions for summary disposition. Other parties to this complaint remained as full parties to the action and have filed appropriate responses. It is solely Verizon that chose to limit its role to an interested person that now seeks status as a party.

4. Additionally, it was clear early on in this complaint that the parties were not going to reach agreement and file stipulated facts. At that time Verizon could have changed its status before the Commission. Instead, Verizon chose to remain an interested person. Having made that decision, it must live by the Washington Administrative Code rules – only parties are entitled to respond to motions for summary disposition.

5. Finally, Verizon does not accurately characterize its supporting materials regarding the FCC filings it included originally to support its response. The FCC's decision in the AT&T petition regarding Voice over Internet Protocol involves a very specific network established by AT&T. LocalDial's network is distinct from AT&T's and as the filed testimony and supporting declarations of Mr. Page Montgomery make clear, those distinctions should lead the Commission to classify LocalDial's service an information service. By including Verizon's testimony it filed in the FCC only serves to confuse and expand the issues before this Commission.

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RESPECTFULLY SUBMITTED this 13th day of May, 2004.

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By 

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## CERTIFICATE OF SERVICE

I hereby certify that I have this 13th day of May, 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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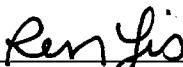
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 13th day of May, 2004, at Seattle, Washington.

  
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