

Law Office of  
Richard A. Finnigan

Richard A. Finnigan

(360) 956-7001

Brita A. Long

(360) 956-7211

2405 Evergreen Park Drive SW  
Suite B-1

Olympia, Washington 98502

Fax (360) 753-6862

Kathy McCrary, Paralegal

(360) 753-7012

Lisa Skelley, Legal Asst.

(360) 753-4679

---

---

September 13, 2004

**VIA E-MAIL AND HAND DELIVERY**

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

Re: Docket No. UT-041244 - WECA, et al. v. Marathon  
Communications

Dear Ms. Washburn:

This letter will serve as a very brief reply to Marathon Communications, Inc.'s ("Marathon") Opposition for Motion for Restraining Order ("Opposition"). Marathon presents essentially two arguments. The first argument is that there is no record supporting the Petitioners' claims. The second argument is that the issues are moot. Neither argument is correct.

The Petitioner's motion is supported by Marathon's own admissions. As stated in other pleadings, and as repeated in the Opposition, Marathon states "In Qwest and Verizon territories, Marathon is temporarily using PRI lines to avoid terminating a limited number of Local Dial [*sic*] customers, which use Marathon anticipates ending within a month...."

Marathon's own statements show that they are illegally bypassing lawful access charges that benefit WECA's members. The reason the bypass occurs is the PRI service makes an interexchange call appear as a local call. Further, the undersigned has explained to Marathon's counsel that all local exchange companies, including Verizon and Qwest, charge a universal service access charge element of \$.00152 per minute on traffic which is remitted to WECA

Washburn  
Page 2  
September 13, 2004

and is used to support WECA's members. Marathon's own statements show that WECA's members are damaged.

This Commission's order in the LocalDial matter,<sup>1</sup> shows that there is a legal duty on Marathon, and all other interexchange carriers, to use proper access services. Marathon admits that it is violating that duty. That violation results in a direct loss to WECA's members. The evidence is clear, it is provided by Marathon.

Further, the issue is obviously not moot. Marathon admits that it is continuing to use the bypass facilities.

The Petitioners respectfully request that the continued use of bypass facilities by Marathon be brought to an immediate end.

Sincerely,

RICHARD A. FINNIGAN

RAF/lb

cc: ALJ Moss  
Service List (via e-mail and US mail)  
Clients (via e-mail)

---

<sup>1</sup> WECA, et al. v. LocalDial Corporation, Docket No. UT-031472, Order No. 08, Final Order Granting Motions for Summary Determination (June 11, 2004).