

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON EXCHANGE)	
CARRIER ASSOCIATION,)	
)	DOCKET NO. UT-041244
Complainant,)	
v.)	
)	ORDER NO. 04
MARATHON COMMUNICATIONS,)	
INC.,)	GRANTING MOTION TO DISMISS
)	ALL CLAIMS AND TO CLOSE
Respondent.)	DOCKET
.....)	

1 **Synopsis:** *The Commission, finding the issues raised by WECA’s claims and Marathon’s counterclaims moot, grants WECA’s unopposed Motion To Dismiss All Claims and closes this docket.*

2 **PROCEEDINGS:** On July 12, 2004, the Washington Exchange Carrier Association (WECA) filed a Complaint against Marathon Communications, Inc. (Marathon), seeking an order from the Commission that would require Marathon to both originate and terminate intrastate interexchange area traffic in a way that comports with the requirements of WECA members’ access tariffs and to cease and desist from the use of EAS trunks and other circuits that avoid originating and terminating access charges. Marathon filed its Answer and Counterclaim on August 2, 2004. Marathon, by counterclaim, asks the Commission to enter an order directing the WECA member Complainants to receive, transmit, and deliver, without delay or discrimination, all telephone messages directed to Marathon’s access lines. WECA filed its Answer to Marathon’s counterclaim on August 23, 2004.

3 **PARTIES:** Richard A. Finnigan, attorney, Olympia, Washington, represents WECA. Henry K. Hamilton and Jeffrey M. Grieff, Grieff & Hamilton, PLLC, Seattle, Washington, represent Marathon. Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).¹

4 **MOTION TO DISMISS; ANSWER:** On October 29, 2004, WECA filed its Motion To Dismiss All Claims and Close Docket. On November 9, 2004, Marathon filed its Non-Opposition to Complainant's Motion To Dismiss. Staff takes no formal position concerning the Motion.

MEMORANDUM

5 It appears from various papers filed by WECA and Marathon during the course of these proceedings, culminating with the Motion and Answer before us today, that these parties each perceive that the other has ceased any such offending activity as may have taken place, and that gave rise to this dispute. WECA's Motion To Dismiss is unopposed and should be granted.

¹ 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*.

ORDER

6 THE COMMISSION ORDERS That WECA's Motion To Dismiss All Claims and To Close Docket is GRANTED. The Commission retains jurisdiction to effectuate the terms of this Order.

DATED at Olympia, Washington, and effective this 12th day of November 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.

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