MATHIAS ET AL. v. WORLDCOM TECHNOLOGIES, INC., ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 00-878. Argued December 5, 2001—Decided May 20, 2002

Because, after full briefing and oral argument, it is clear that petitioners were the prevailing parties below and seek review of uncongenial findings not essential to the judgment and not binding upon them in future litigation, certiorari is dismissed as improvidently granted. See *New York Telephone Co. v. Maltbie*, 291 U. S. 645 (per curiam).

Certiorari dismissed. Reported below: 179 F. 3d 566.

Joel D. Bertocchi, Solicitor General of Illinois, argued the cause for petitioners. With him on the briefs were James E. Ryan, Attorney General, A. Benjamin Goldgar and Michael P. Doyle, Assistant Attorneys General, Myra L. Karegianes, John P. Kelliher, and Thomas R. Stanton.

Barbara McDowell argued the cause for the United States as respondent under this Court's Rule 12.6 urging affirmance. With her on the brief were Solicitor General Olson, Acting Assistant Attorney General Katsas, Deputy Solicitor General Wallace, Mark B. Stern, Charles W. Scarborough, and John A. Rogovin.

Paul M. Smith argued the cause for respondents. With him on the brief for respondents WorldCom Technologies, Inc., et al. were William M. Hohengarten, Michael B. De-Sanctis, Darryl M. Bradford, John J. Hamill, William Single IV, Brian J. Leske, and Richard Metzger. David W. Carpenter, Stephen B. Kinnaird, and Marc C. Rosenblum filed a brief for respondent AT&T Communications of Illinois, Inc., et al. Stephen M. Shapiro, John E. Muench, Theodore A. Livingston, Robert M. Dow, Jr., Michael W. McConnell, Martin H. Redish, and William M. Schur filed a brief

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for respondent Illinois Bell Telephone Co., dba Ameritech Illinois.*

PER CURIAM.

We granted certiorari to consider three questions: (1) whether a state commission's action relating to the enforcement of an interconnection agreement is reviewable in federal court under 47 U.S.C. §252(e)(6) (1994 ed., Supp. IV); (2) whether a state commission waives its Eleventh Amendment immunity by voluntarily participating in the regulatory scheme established by the Telecommunications Act of 1996, Pub. L. 104–104, 110 Stat. 56; and (3) whether the doctrine of *Ex parte Young*, 209 U.S. 123 (1908), permits suit for prospective relief against state public utility commissioners in their official capacities for alleged

^{*}Briefs of amici curiae urging reversal were filed for the State of New Jersey et al. by John J. Farmer, Jr., Attorney General of New Jersey, Andrea Silkowitz and Nancy Kaplen, Assistant Attorneys General, and Stefanie A. Brand, Deputy Attorney General, and by the Attorneys General for their respective jurisdictions as follows: Bill Pryor of Alabama, Bruce M. Botelho of Alaska, Richard Blumenthal of Connecticut, Robert A. Butterworth of Florida, Thurbert E. Baker of Georgia, Alan G. Lance of Idaho, Steve Carter of Indiana, Thomas F. Reilly of Massachusetts, Carla J. Stovall of Kansas, Jennifer M. Granholm of Michigan, Ray Cooper of North Carolina, Herbert D. Soll of the Northern Mariana Islands, Betty D. Montgomery of Ohio, Mark Barnett of South Dakota, and Mark L. Shurtleff of Utah; for the Coalition for Local Sovereignty by Kenneth B. Clark; for the Council of State Governments et al. by Richard Ruda and James I. Crowley; and for the Pennsylvania Public Utility Commission by Maryanne Reynolds Martin and Bohdan R. Pankiw.

Briefs of amici curiae urging affirmance were filed for BellSouth Corp. et al. by Mark L. Evans, Michael K. Kellogg, Sean A. Lev, Aaron M. Panner, William P. Barr, Mark J. Mathis, Michael D. Lowe, Charles R. Morgan, and John W. Hunter; and for the NOW Legal Defense and Education Fund by Lesley Szanto Friedman, Aidan Synnott, Martha F. Davis, and Isabelle Katz Pinzler.

Briefs of amici curiae were filed for the National Association of Regulatory Utility Commissioners et al. by James Bradford Ramsay, Carl F. Patka, and Neil T. Erwin; and for Sprint Corp. by David P. Murray.

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ongoing violations of that Act. 532 U. S. 903 (2001). After full briefing and oral argument, it is now clear that petitioners were the prevailing parties below, and seek review of uncongenial findings not essential to the judgment and not binding upon them in future litigation. As a general rule, a party may not appeal from a favorable judgment simply to obtain review of findings it deems erroneous. See *New York Telephone Co. v. Maltbie*, 291 U. S. 645 (1934) (per curiam).

We have since granted certiorari to the United States Court of Appeals for the Fourth Circuit to review the same questions, arising in the same factual context. *Verizon Md. Inc.* v. *Public Serv. Comm'n of Md.*, and *United States* v. *Public Serv. Comm'n of Md.*, 534 U. S. 1072 (2001). Our decision in those cases is released today. See *Verizon Md. Inc.* v. *Public Serv. Comm'n of Md.*, ante, p. 635. The writ in this case is dismissed as improvidently granted.

It is so ordered.

JUSTICE O'CONNOR took no part in the consideration or decision of this case.