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

In the Matter of the Petition of  
  
Intelligent Community Services, Inc.  
  
For Designation as Eligible  
Telecommunications Carrier Under  
47 U.S.C. §214(e)(2)

DOCKET NO. UT-053041

WITA'S REPLY TO THE ICS OPPOSITION TO  
WITA MOTION TO COMPEL

The Washington Independent Telecommunications Association ("WITA") hereby files a very brief Reply to the ICS Opposition to WITA Motion to Compel.

There are essentially two groups of questions at issue under the Motion to Compel. One deals with the ability of carriers other than ICS to provide service within the Suncadia Resort. This area of inquiry has two subparts. The first subpart deals with the technical nature of the Suncadia network. The second deals with the terms and conditions under which another carrier, such as Inland Telephone Company, can access the Suncadia network.

The second primary area to which the questions are addressed is the nature of the financial commitments made by ICS, which ICS touts in its pre-filed testimony.

1. Information Concerning the Suncadia Network is Required in Order to Allow a Reasonable Determination to be Made Whether Other Carriers Can Use that Network.

ICS complains that it should not have to provide details concerning the nature of the Suncadia network. However, in order to judge whether or not that network can be accessed by a second carrier, information is required. WITA consulted some of its members who are experienced with fiber networks and posited the following situation: "Assume that there is a private fiber network that is being used by one carrier to provide services throughout a defined area. Under this assumption, what do you need to know to determine whether another carrier can use that same network." WITA received a list of questions that the people familiar with fiber networks said "Here is what you need to know in order to make that determination." Those questions were then propounded to ICS. It is nothing more than an effort to try to determine whether, in fact, the Suncadia network can be used by other carriers from a technical standpoint. Has Suncadia made a real offer? Or is it an empty promise? That is what those questions are designed to determine.

The second part of this major issue has to do with the nature of Suncadia's commitment to actually allow a carrier other than ICS to use the network. This goes directly to Issue 4.4 which states as follows:

Are both Suncadia and ICS separately willing to provide access to Suncadia's communication infrastructure to carriers other than ICS on the same or comparable terms and conditions as those under which ICS has access to Suncadia's communication infrastructure? If not, are there other conditions on which Suncadia or ICS will provide such access?

WITA has asked questions designed to address this issue. ICS has refused to respond to those questions stating that the questions are designed to predetermine the negotiation issues. That is not the case. The questions relate directly to Issue 4.4.

1           What ICS and its business partner, Suncadia, are doing is a modern version of the old carnie  
2 shell game. They hope to hide the prize long enough for ICS to receive its designation as an ETC  
3 and then they will reveal that there is no prize at all. The objections made by ICS to responding to  
4 questions concerning the terms under which another carrier can access the Suncadia network are not  
5 well founded.

6  
7           Chairman Sidran identified the issue of whether Suncadia will allow access to the Suncadia  
8 network by carriers other than ICS, on the same terms and conditions enjoyed by ICS, as going to  
9 the public interest portion of ICS's application. To date, the responses by ICS to the questions that  
10 have been asked can only be identified as a "no." In other words, the inference to be drawn by the  
11 evasions of ICS is that access cannot be obtained on the same or comparable terms and conditions  
12 that ICS has access to the Suncadia communications infrastructure.<sup>1</sup>

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14 2.       ICS has Placed its Investments in Infrastructure Directly at Issue by its Testimony.

15           In Mr. Southard's pre-filed Direct Testimony, he makes several statements concerning the  
16 level of investment by ICS, implying that the investment is for telecommunications infrastructure to  
17 serve the Roslyn exchange. See, e.g., Mr. Southard's Testimony at p. 4, l. 12-15: "Over the next  
18 two years, ICS anticipates investing over 2 million in such network expansion, in addition to the  
19 more than 1.5 million ICS has already invested in network infrastructure to serve the Roslyn  
20 exchange." In addition, Mr. Southard states at p. 6, l. 10-12: "ICS plans to invest more than \$4.2  
21 million over the next two years to expand its network into the remainder of the Roslyn exchange  
22 and into the adjacent Cle Elum Urban Growth Area."

23  
24 <sup>1</sup> ICS notes that Inland made a request to Suncadia to enter into negotiations. This request was made in direct response  
25 to Suncadia's testimony on behalf of ICS. What ICS fails to point out is that, to date, Suncadia has yet to respond to the  
26 request made by Inland.

1 Having made its investment, both past and planned, the matter of testimony in this docket,  
2 ICS cannot be heard to object to questions asking for details about the nature of that investment.


3 ICS argues that it has responded to these questions by providing summary information. ICS  
4 describes this as a substantial, good faith effort. However, the meagerness of the "Highly  
5 Confidential" summary is self evident. Nothing can be determined by the figures listed by ICS. It  
6 is not sufficient for ICS to provide a response at a fifty thousand foot level that hides the nature of  
7 the investment.

8 ICS provides cable services, Internet services and other non-regulated services in addition to  
9 telecommunications services. ICS has plans to serve in the Cle Elum exchange, as well as the  
10 Roslyn exchange. Having described in general terms its past and planned investment, and in light  
11 of the fact that much of the investment may well be for services that are not supported by universal  
12 service support or in areas outside of the area in which the universal service support is generated,  
13 ICS should be called upon to explain its testimony. It is inappropriate for very general statements  
14 about investment levels to be made, hoping that the inference is derived that these investments are  
15 related to the petition for designation as an ETC, without allowing those statements to be tested.

16 REQUEST FOR RELIEF

17 WITA respectfully requests that the Commission grant its Motion to Compel.

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19 Respectfully submitted this 27th day of June, 2008.

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WITA'S REPLY TO THE ICS OPPOSITION TO  
WITA MOTION TO COMPEL - 4

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