

Agenda Date: June 29, 2005

Item Numbers: A2 and A3

Dockets: UT-050606
UT-050874

Company Name: Inland Telephone Company

Staff: Deborah Reynolds, Telecommunications Regulatory Analyst
Dave Griffith, Telecommunications Engineer
Bob Shirley, Telecommunications Policy Analyst

Recommendation

Issue a complaint and order suspending the tariff filing in UT-050606.

Take no action on the contract between Inland Telephone Company and Suncadia Resort in UT-050874.

Background

Inland Telephone Company (Inland), on April 19, 2005, filed a tariff revision to add some territory north of the Roslyn exchange, and remove territory comprising the Suncadia Resort (Suncadia) on the southern edge of the Roslyn exchange. The territory to be added has one residence with more planned; the territory to be removed will have 2,800 residences, three golf courses, and other commercial activity when Suncadia completes its plans. Some of this development has already occurred.¹ The result of approving the tariff filing would be to remove Inland's obligation to serve the planned development.

On May 10, 2005, Suncadia stated its opposition to the tariff boundary change by letter. On June 7, 2005, Inland filed a contract with the Commission between Suncadia and itself for the provision of telecommunications services that is effective on "approval" of the tariff filing in UT-050606. Commission Staff contacted Suncadia and confirmed that it no longer opposes Inland's tariff. The contract limits Inland's obligation to provide services to the present 100-pair cable; Inland may, at its option, provide other services at tarified rates, but it is

¹ Staff visited the Suncadia site on June 20, 2005. Staff counted 10 lots in various stages of construction. Staff saw 413 lots marked either for sale or sold. Roads, water, natural gas (UG-040098), and power (UE-041037) are in place for those lots. Staff toured the Prospector Inn, an 18 room hotel with restaurant and conference facilities. Staff verified that the phone service at the Inn connects to the public switched telephone network.

specifically protected against being required to build new plant to do so. If Suncadia needs additional services that are not in the current tariff, then the parties will negotiate in good faith reasonable rates for the additional services. The contract requires Inland to submit a tariff to the Commission for the service that carries Suncadia's E-911 calls, including automatic location information (ALI) and automatic number identification (ANI). It is for a term of 10 years and requires Suncadia to support fully the tariff in UT-050606.

On May 5, 2005, Intelligent Community Services, Inc (ICS), a competitive local exchange company (CLEC), stated its opposition to the boundary change. ICS is a vendor for Suncadia Resort and it has informed Commission Staff that it will need services from Inland in order to provide telecommunications services to Suncadia.

Discussion

Commission Staff believes that removing Inland's obligation to serve in the Suncadia development is not in the public interest because it may leave residents without ready access to telecommunications service from a local exchange company. It is Washington's policy to "maintain and advance the efficiency and availability of telecommunications service." *RCW 80.36.300(2)*. One way to ensure the availability of service is through the statutory obligation to serve. *RCW 80.36.090*. Staff believes that removal of the Suncadia Resort territory from the Roslyn Exchange, however, would also remove Inland's obligation to serve residents of the area, which is Inland's stated purpose for this filing.²

While Inland currently plans to continue service to the Suncadia Resort under a contract rather than under an obligation to serve, it is not clear that anyone now, or in the future, living within the territory to be removed from the exchange by this tariff will be reasonably entitled to service, as is the case when *RCW 80.36.090* applies. The contract does not allow the residents of Suncadia to order service from Inland; for them, the contract is not a substitute for the tariff.³

² The Washington Supreme Court has stated that an exchange "define[s] the geographical limits of a company's obligation to provide service on demand[.]" *Electric Lightwave et. al v. Utilities and Transportation Commission*, 123 Wn.2d 530, 537 (1994). A company's obligation to serve is not absolute; the Commission rule on line extensions provides a mechanism for relief if a company receives a request for service that it considers unreasonable. *WAC 480-120-071*.

³ Commission Staff could find no cases where the Commission has removed the ILEC's obligation to serve when the ILEC intended to continue providing service to the area, and had both facilities and services

The Commission has authority to prescribe exchange area boundaries. *RCW 80.36.230*. Commission Staff believes that the Commission, through suspension and full consideration of the tariff, should determine whether it is in the public interest for present and future homeowners living in Suncadia to remain within the Roslyn Exchange and therefore able to request service from a carrier with an obligation to serve.⁴ In addition, reversing the removal of territory from the exchange may be much more difficult than allowing the tariff to go into effect. For example, in Docket UT-050778, Verizon is vigorously opposing a complaint by eight homeowners in the Index area that seeks expansion of one of its exchanges, and staff would expect a similar response from any ILEC in a similar position.

Staff sees no need to take action on the contract in Docket UT-050874 that takes effect on approval of the tariff in Docket UT-050606. If the tariff is not ultimately approved, the contract will have no effect. If the tariff is approved, then the contract is the basis for Suncadia to purchase telecommunications services from Inland at tariff rates. Section 2 of the contract states that in the absence of tariffed rates, the parties will negotiate in good faith to arrive at reasonable rates. Commission Staff believes that such negotiations would likely result in a new contract that would have to be filed with the Commission.

Recommendation

Issue a complaint and order suspending the tariff filing in UT-050606, and take no action on the contract filed in UT-050874.

already in place. In the past, where the Commission removed an obligation to serve by removing territory from an exchange, the ILEC has not provided service in the vacated area.

⁴ It is not clear if a reduction in the exchange area, on which the designation and calculation of high-cost support is based, results in a reduction in the ETC service area. Inland has not requested relinquishment of its ETC designation for the territory it seeks to remove from the Roslyn Exchange. *47 U.S.C. § 214(e)(4)*. The other ETC designated for the area might want to reduce the size of its service area if the tariff goes into effect because one effect of the tariff may be to eliminate support payments for service to residents of Suncadia.