

**Before the
Washington Utilities and Transportation Commission**

In the Matter of the Petition of)	
)	Docket No. UT _____
Intelligent Community Services)	
)	PETITION OF INTELLIGENT
For Designation as Eligible)	COMMUNITY SERVICES FOR
Telecommunications Carrier)	DESIGNATION AS ELIGIBLE
Under 47 U.S.C. § 214(e)(2))	TELECOMMUNICATIONS CARRIER

Intelligent Community Services, Inc. (ICS), submits this Petition for Designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(2) of the Telecommunications Act of 1934, as amended (“Act”), 47 U.S.C. § 214(e)(2), and Section 54.201 of the Federal Communications Commission’s (“FCC”) rules, 47 C.F.R. § 54.201. ICS requests that it be designated as eligible to receive all available support from the federal Universal Service Fund (“USF”) including, but not limited to, support for rural, insular and high cost areas and low-income customers. In support of this Petition, the following is respectfully shown:

I. Name and Address of Petitioner

1. The name and address of Petitioner are Intelligent Community Services Inc., 1200 NW Naito Parkway, Suite 200, Portland, OR 97209.

II. Applicable Statutes and Rules

2. The statutes and rules implicated by the instant Petition are as follows: 47 U.S.C. §§ 153(27), 153(44), 214(e), 253(b), and 254(d); 47 C.F.R. §§ 51.5, 54.5, 54.101, 54.201, 54.207, 54.307, 54.313, and 54.314.

III. Authorization and Service Area

3. ICS is a telecommunications carrier as defined in 47 U.S.C. § 153(44) and 47 C.F.R. § 51.5, and for the purposes of Part 54 of the FCC's rules.¹ ICS is therefore considered a common carrier under the Act.
4. ICS is Competitive Telecommunications Carrier in the state of Washington per Docket Number UT-050514. ICS provides interstate telecommunications services as defined in 47 U.S.C. § 254(d) and 47 C.F.R. § 54.5.
5. A telecommunications carrier may be designated as an ETC and receive universal service support throughout its designated service area if it agrees to: (i) offer services that are supported by federal universal service support mechanisms, and (ii) advertise the availability of such services.² In its *First Report and Order* implementing Section 214(e) and 254, the FCC set forth the services a carrier must provide to be designated as an ETC in order to receive federal universal service support.³
6. Section 214(e)(2) of the Act provides that ETC designations shall be made for a "service area" designated by the state commission. In areas served by a non-rural company, the state commission may establish an ETC service area for a competitor without federal concurrence.⁴ ICS does not request designations for its service area in a non-rural wire center at this time.

¹ 47 U.S.C. § 54.1 *et seq.*

² *See* 47 U.S.C. § 214(e)(1).

³ *Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8809-25 (1997) ("*First Report and Order*").

⁴ *See* 47 U.S.C. § 214(e)(5).

7. In areas served by a rural telephone company, “service area” means the local exchange carrier (“LEC”) study area unless and until the FCC and the states, taking into account recommendations of a Federal-State Joint Board on Universal Service, establish a different definition of service area for such company.⁵ On August 17, 1998, the Washington Utilities and Transportation Commission (“WUTC”, “Commission”) and 20 rural LECS filed a petition requesting the FCC’s agreement with the WUTC’s designation of the individual exchanges of 15 rural LECs as their “service areas” for universal service purposes. The petition also requested a waiver of Section 54.307 of the FCC’s rules, 47 C.F.R. § 54.307, to permit the disaggregation of high-cost support to Washington’s rural carriers. In a *Memorandum Opinion and Order* released September 9, 1999,⁶ the FCC agreed with the WUTC’s proposed service area designation, stating the redefinition along exchange-area boundaries was “warranted in order to promote competition.”⁷

⁵ See 47 C.F.R. § 54.207(b).

⁶ See *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distribution Portable Federal Universal Service Support, Memorandum Opinion and Order*. 15 FCC Rcd 9921, 9927 (1999)(“*Designation Order*”).

⁷ *ID.*

8. The FCC also granted the proposed waiver of Section 54.307, permitting the disaggregation of high-cost support on an interim basis pending the development of a new mechanism for the calculation and distribution of support.⁸ Recently, pursuant to the *Fourteenth Report and Order* released on May 2001, several LECs in Washington submitted filings to the WUTC to select among the three enumerated paths defining the manner in which support is to be calculated and distributed on a going-forward basis.⁹ The computation and distribution of high-cost support resulting from those filings will supersede the portions of the *Designation Order* that pertain to disaggregation.¹⁰
9. ICS notes that the service area redefinition effectuated by the Designation Order is wholly distinct from the disaggregation issue. Indeed, the geographic composition of a service area for designation of a competitive ETC has no impact on the way in which LECs compute and receive high-cost support. The rural LEC covered by ICS's service territory – Inland Telephone Company - - is among those who

⁸ *ID.*

⁹ See 47 C.F.R. § 54.315; *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and Order, Twenty Second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11294, 11299-309 (2001).

¹⁰ See *Designation Order*, 15 FCC Rcd at 9927.

successfully petitioned for the redefinition of service areas along exchange-area boundaries. Accordingly, ICS requests designation as an ETC in the Inland Roslyn wire center.¹¹ ICS is currently building a switching building and extending facilities to interconnect with Qwest inside the Cle Elum exchange. Future plans call for an interconnect agreement with Inland to provide E911 redundancy. ICS is currently focused on the high-cost section of Inland's territory that comprises the Suncadia resort. This area apparently is so high-cost to service that Inland has requested it be removed from its territory per UT-050606¹². As discussed in Section VI, *infra*, not allowing ICS to compete as a new carrier in this LEC wire center would be contrary to the pro-competition policies articulated by the FCC and the WUTC. ICS may in the future expand its service territory to further compete when such expansion makes business sense.

IV. ICS offers the Supported Services to Qualify for Federal USF Support

10. Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules provide that carriers designated as ETCs shall, throughout their service area, (1) offer the services that are supported by federal universal service support mechanisms either using their own facilities or a combination of their own facilities and resale of

¹¹ With the exception of certain non-rural areas, wire centers are generally synonymous with exchanges. See "Promoting Competition and Reforming Universal Service: A Report to the Washington State Legislature" at p. 51 n.94 (WUTC., Nov. 1998) Accordingly, ICS's request for ETC designation at the wire-center level is consistent with WUTC's use of LEC exchanges for both ETC designation and disaggregation of high-cost support.

¹² It is ICS's position that a modification of the exchange area will result in an equivalent modification in the ETC area, thereby leaving the area as described in Inlands tariff filing both without an incumbent provider or a means for another provider to extend service into the area with the use of high-cost support.

another carrier's services, and (2) advertise the availability of such services and the charges therefore using media of general distribution. 47 U.S.C. § 214(e)(1) ; 47 C.F.R. § 54.201(d).

The services which are supported by the federal USF are:

- i. Voice grade access to the public switched network;
- ii. Local usage
- iii. Dual tone multi-frequency signaling or its functional equivalent;
- iv. Single-party service or its functional equivalent;
- v. Access to emergency services;
- vi. Access to operator services;
- vii. Access to interexchange service;
- viii. Access to directory assistance; and
- ix. Toll limitation for qualifying low-income consumers.

47 C.F.R. § 54.101(a).

11. ICS is a full-service telecommunications carrier which will offer all of these services, as described in detail below, throughout its service area. ICS therefore satisfies the requirements of Section 214(e)(1) of the Act.

12. Voice Grade Access. ICS provides voice grade access to the public switched network through interconnection arrangements with local telephone companies. ICS offers its subscribers this service as required by 47 C.F.R. 54.101(a)(1), thereby providing voice grade access.

13. Local Usage. ICS has a variety of rate plans which provide local usage consistent with 47 C.F.R. 54.101(a)(2). To date, the FCC has not quantified a minimum amount of local usage required to be included in a universal service offering, but

has initiated a separate proceeding to address this issue.¹³ As it relates to local usage, the *October 1998 NPRM* sought comment on a definition of the public service package that must be offered by all ETCs. Specifically, the FCC sought comment on how much, if any, local usage should be required to be provided to customers as part of a universal service offering.¹⁴ In the *First Report and Order*, the FCC deferred a determination on the amount of local usage that a carrier would be required to provide.¹⁵ Any minimum local usage requirement established by the FCC will be applicable to all designated ETCs, and ICS will comply with any and all minimum local usage requirements adopted by the FCC.

14. DTMF Signaling. ICS provides dual tone multi-frequency (“DTMF”) signaling to facilitate the transportation of signaling throughout its network.
15. Single Party Service. “Single-party service” means that only one party will be serviced by subscriber loop or access line in contrast to a multi-party line.¹⁶ ICS provides single party service, as that term is defined in Section 54.101 of the FCC’s rules. See 47 C.F.R. § 54.101.
16. Access to Emergency Services. ICS provides E911 access to emergency services throughout its service area.

¹³ See *Guam Cellular and Paging, Inc.*, CC Docket No. 96-45, DA 02-174 at para.11 (C.C.B. rel. Jan 25,2002)(“*Guamcell*”): *Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 13 FCC Rcd 21252 (1998)(“*October 1998 NPRM*”).

¹⁴ See *October 1998 NPRM*, 13 FCC Rcd at 21277-21281.

¹⁵ See *First Report and Order*, 12 FCC Rcd at 8813.

¹⁶ See *id.* At 8810.

17. Access to Operator Services. ICS provides customer access to operator services. Customers can reach operator services in the traditional manner by dialing “0”.
18. Access to Interexchange Services. ICS has signed interconnection agreements with interexchange carriers. These arrangements enable ICS to provide its customers access to interexchange services. Customers may also “dial around” to reach their interexchange carrier of choice.
19. Access to Directory Assistance. Subscribers to ICS’s services are able to dial “411” or “555-1212” with the appropriate area code to reach directory assistance.
20. Toll Limitation. ICS has toll blocking capabilities which will enable ICS to provide toll blocking service for Lifeline customers once ICS is designated an ETC.
21. Pursuant to Section 54.201 of the FCC’s rules, 47 C.F.R. § 54.201, ICS will advertise the availability of each of the supported services detailed above, throughout its service area, by media of general distribution. The methods of advertising utilized may include newspaper, magazine, direct mailings, public exhibits and displays, bill inserts, and telephone directory advertising.

V. Statement of Need

22. Many residents of Washington live in rural areas where it is cost-prohibitive for a competitive telecommunications company to offer service. As a result, consumers generally have only one service provider from which to choose. ICS seeks to offer citizens of Washington in its service area an alternative. In order for ICS’s network to expand into underserved areas, federal high-cost loop funding must be provided so that needed infrastructure can be fully deployed and competitive service can be delivered.

23. By granting ETC status to ICS, this Commission will expedite the provision of competitive telephone service to the people living in remote areas and provide a meaningful choice for many subscribers who have access to only one service provider.

VI. Grant of ICS's Application Would Serve the Public Interest

24. In areas served by non-rural LECs, the commission can designate ICS as an ETC upon finding that the company meets the nine-point checklist and that it agrees to advertise the supported services.¹⁷ In areas served by a rural telephone company, the Commission must also determine whether granting ETC status to a competitor would serve the public interest.¹⁸ In numerous cases decided by the FCC and state commissions, the answer has been in the affirmative. In numerous cases decided by the FCC and state commissions, the answer has been in the affirmative.¹⁹

25. Designation of ICS will promote competition and facilitate the provision of advanced communications services to the residents of rural Washington. Residents in many rural areas have long trailed urban areas in receiving competitive local exchange service and advanced telecommunications services. In many rural areas, no meaningful choice of local exchange carrier exists.

¹⁷ See *Cellular South Licenses, Inc.*, Docket No. 01-UA-0451 (Dec. 18, 2001)(Mississippi).

¹⁸ See 47 U.S.C. § 214(e)(2).

¹⁹ See e.g., *Western Wireless Corporations Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, 16 FCC Rcd 48, 55 (2000)(“*Western Wireless*”), *aff'd*, 24 CR 1216 (Oct. 19, 2001)(“*Western Wireless Recon.Order*”); *Smith Bagley, Inc., Final Order*, Utility Case No. 3026 (Feb. 19, 2002)(New Mexico).

26. One of the principal goals of the Telecommunications Act of 1996 was to “promote competition and reduce regulation in order to secure lower prices and high-quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”²⁰ Competition in rural areas increases facilities and spurs development of advanced communications as carriers vie for a consumer’s business.

27. The public interest standard under Section 214(e)(2) for designating ETCs in territories served by rural telephone companies emphasizes competition and consumer benefit, not incumbent protection. In considering the impact that a competing ETC designation in Wyoming would have on rural telephone companies, the FCC said:

We do not believe that it is self-evident that rural telephone companies cannot survive competition Specifically, we find no merit to the contention that designation of an additional ETC in areas served by rural telephone companies will necessarily create incentives to reduce investment in infrastructure, raise rates, or reduce service quality to consumers in rural areas. To the contrary, we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers.²¹

²⁰ Telecommunications Act of 1996, Public Law, 104-104, 100 Stat. 56(1996).

²¹ *United States Cellular Corporation et al., Third Supplemental Order Granting Petition for Designation as Eligible Telecommunications Carrier*, Docket No. UT-970345, (Jan. 26, 2000)(“*Third Supplemental Order*”).

Further, congress has mandated that universal service provisions be “competitively neutral”: and “necessary to preserve and advance universal service.” See 47 U.S.C § 253(b). ICS will provide consumers with a variety of service offerings, high-quality service, and competitive rates. By offering customers new choices, the incumbent LEC’s will have an incentive to introduce new, innovative, or advanced service offerings.

28. In most rural areas, a single provider is all that is available unless high-cost loop support is made available to drive infrastructure investment by competitors. Indeed, without the high-cost program it is doubtful that many rural areas would have wire line telephone service even today. Provision of high-cost support to ICS will begin to level the playing field with the incumbent LECs and make available for the first time a potential competitor for primary telephone service in remote areas of Washington.²²

29. The consumer benefits of designating a competitive ETC are already becoming evident. In South Dakota, shortly after WWC License, LLC entered the market as a competitive carrier, the incumbent LEC lowered its prices and upgraded its switch. Competitive carriers in Arizona and Mississippi have earmarked high-cost support funds for additional channel capacity, new cell sites, and expedited upgrading of facilities from analog to digital.

²² See *Third Supplemental Order, supra at para. 43.*

30. With high-cost support, ICS will have an opportunity to create a high-quality infrastructure that is capable of providing new services at a competitive price.

VII. High-Cost Certification

31. Under FCC Rule Sections 54.313 and 54.314, carriers wishing to obtain high-cost support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction self-certify with the FCC and the Universal Service Administrative Corporation (“USAC”) their compliance with Section 254(e) of the Federal Telecommunications Act of 1996. 47 C.F.R. §§ 54.313, 54.314. ICS respectfully requests that the WUTC issue a finding that ICS has met the high-cost certification requirement and the ICS is, therefore, entitled to begin receiving high-cost support as of the date it receives a grant of ETC status in order that funding will not be delayed.²³

Wherefore, pursuant to Section 214(e)(2) of the Act, ICS respectfully requests that the Commission, (1) enter an Order designating ICS as an ETC for its requested ETC service area as shown on Exhibit A hereto, and (2) certify to the FCC that ICS will use the support for its intended purpose.

Respectfully submitted.

Intelligent Community Services, Inc.

By: _____

Jeff Tilleman
Vice President/General Manager
1200 NW Naito Parkway, Suite 200
Portland, OR 97209

²² See e.g. *Guam Cellular and Paging, Inc. Petition for Waiver of FCC Rule Section 54.314*, CC Docket 96-45 (filed Feb. 6, 2002).