

Exhibit No. ___TC (DJR-1TC)
Docket No. UT-050606
Witness: Deborah J. Reynolds

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

DOCKET NO. UT-050606

Complainant,

v.

INLAND TELEPHONE COMPANY,

Respondent.

DIRECT TESTIMONY OF

DEBORAH J. REYNOLDS

STAFF OF
WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

December 16, 2005

REDACTED VERSION

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1 I. INTRODUCTION

2

3 Q. Please state your name and business address.

4 A. My name is Deborah J. Reynolds. My business address is 1300 South
5 Evergreen Park Drive Southwest, P.O. Box 47250, Olympia, Washington
6 98504. My e-mail address is dreynold@wutc.wa.gov.

7

8 Q. By whom are you employed and in what capacity?

9 A. I am employed by the Washington Utilities and Transportation Commission
10 as a Regulatory Analyst in the Telecommunications Section of the Regulatory
11 Services Division.

12

13 Q. What are your education and experience qualifications?

14 A. I hold a Master of Regional Planning degree and a Bachelor of Science degree
15 in general studies from Washington State University. I have been employed
16 at the Commission since July 1999. During that time, I have worked on
17 various telecommunications issues. I have presented recommendations to
18 the Commission on late-filed interconnection agreements, petitions for rule
19 exemptions, tariff changes, and commercial agreements.

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II. SCOPE OF TESTIMONY

Q. What is the purpose of your testimony?

A. My testimony responds to the tariff filing by Inland Telephone Company (Inland or Company) in Docket No. UT-050606 to remove the territory comprising the Suncadia resort from the Roslyn exchange. It provides the Commission with the background of this case; discusses the public interest as affected by this filing; and responds to the testimony of Inland witness Mr. Coonan and Suncadia,LLC (Suncadia) witness Mr. Eisenberg.

Q. Has any other party filed testimony in this case?

A. Yes. On December 16, Robert B. Shirley filed eligible telecommunications carrier testimony on behalf of Commission Staff. On the same day, Intelligent Community Services, Inc., an intervenor in the case, and Public Counsel had the opportunity to file responsive testimony.

1 III. SUMMARY OF TESTIMONY

2

3 **Q. Please summarize your testimony.**

4 A. My testimony analyzes the tariff filing made by Inland to remove territory
5 comprising the Suncadia resort from Inland’s Roslyn exchange. This tariff
6 filing resulted from a dispute between Inland and Suncadia over the scope of
7 easements to provide service to Suncadia resort. *See Exhibit No. ___T (JPC-*
8 *1T); and Exhibit No. ___T (PJE-1T).* Inland currently provides tariffed
9 business services to Suncadia. As discussed in my testimony, Staff does not
10 believe this filing should be approved.

11

12 **Q. Why does Staff believe this tariff filing should not be approved?**

13 A. Staff believes this tariff filing asks the Commission to tip the balance of the
14 public interest test by protecting private business interests over consumers.
15 While it is proper for Inland Telephone Company and Suncadia to seek
16 predictability and to make a profit, it is improper for either one or both to
17 seek a change that will increase uncertainty about the availability and
18 reliability of local telephone service at reasonable charges or increase profit

1 potential when the result is to decrease certainty and options for the
2 consumer to obtain telecommunications services at reasonable charges.¹

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IV. DISCUSSION

5

A. BACKGROUND

7

1. *Parties*

8

9 **Q. Who are the parties in this case?**

10 A. The parties to this proceeding are: Inland Telephone Company, an
11 incumbent local exchange carrier (ILEC); Suncadia, LLC, a land development
12 company; Intelligent Community Services, Inc., a competitive local exchange
13 carrier (CLEC) and intervenor; Commission Staff; and Public Counsel.

14

15 **Q. Please describe Inland's operations in Washington State.**

16 A. Inland is the incumbent provider of wireline telecommunications services in
17 the Roslyn Exchange as shown in Exhibit No. ___ (DJR-2). In its 2004 Annual
18 Report to the Commission, the Company reported intrastate operating

¹ RCW 80.36.300(3) ...“Ensure that customers pay only reasonable charges for telecommunications services.” And (5) “Promote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state...”

1 revenues of \$2,201,608 and 2,706 total lines and channels of voice telephone
2 service provided to end users.

3 Inland is owned by Western Elite Incorporated Services. Inland's
4 affiliates, Inland Cellular Telephone Company, Inland Long Distance
5 Company, R&R Cable Company, and R&R Cable Company d/b/a Inland
6 Security, and Inland's subsidiary Inland Telephone Company d/b/a Inland
7 Internet, all provide service in the Roslyn Exchange. In addition, Western
8 Elite Incorporated Services owns [REDACTED] companies: [REDACTED]

9 [REDACTED], [REDACTED], [REDACTED]

10 [REDACTED], [REDACTED], and [REDACTED]

11 [REDACTED]. See Company Organizational Chart - Inland Response to WUTC Staff
12 Data Request No. 36 Confidential Attachment Exhibit No. ___C (DJR-3C).

13

14 **Q. Please describe the Suncadia resort.**

15 A. The Suncadia resort is a master-planned resort of approximately 6,000 acres
16 owned and operated by Suncadia. If completed as planned, Suncadia will
17 have 2,800 residences, three golf courses, and other commercial activity.

18 Some of this development has already occurred. As of September 8, 2005,

19 Suncadia reported 596 lots had been sold. See Suncadia Response to Inland

20 Data Request No. 5, Also submitted as Suncadia Response to WUTC Staff Data

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Q. What other filing was made that relates to this case?

A. On June 7, 2005, Inland filed a contract in Docket No. UT-050874, Exhibit No. ___ (PJE-4), for the provision of telecommunications services to Suncadia. This contract will only become effective on “approval” of the tariff filing in Docket No. UT-050606.

3. *Easements To Provide Service*

Q. Please describe events leading to the tariff filing.

A. Inland and Suncadia were unable to agree to terms concerning an easement for Inland to cross Suncadia’s property to reach a lot where a home was under construction. The property owner wanted telephone service from Inland to be available to the contractor at the lot while the construction was underway.

Other negotiations took place, but the end result was that Suncadia was unwilling to provide broad easements to Inland -- easements that would have permitted Inland to provide, among other services, television, alarm systems, broadband Internet access, and other advanced telecommunications

³ There is no dispute in this case regarding the territory to be added.

1 services or information services. Therefore, Inland did not provide service to
2 the contractor or property owner. *See Exhibit No. ___ (PJE-1T) Pp. 3-4.*

3

4 **Q. Who is responsible for obtaining an easement for telecommunications**
5 **services?**

6 A. Generally, the applicant for service is responsible for obtaining an easement.
7 In this case, that would be the property owner. *WAC 480-120-061.*

8

9 **Q. Was Inland obligated to attempt negotiations with Suncadia for an**
10 **easement?**

11 A. No. Inland had no obligation to negotiate with Suncadia.

12

13 **Q. Does Suncadia receive service from Inland for the business needs of**
14 **Suncadia?**

15 A. Yes. In response to a Staff data request, Inland provided a list of over 500
16 telephone numbers assigned to Suncadia, and described the various services
17 provided by Inland. *See Exhibit No. ___ (DJR-4) – Excerpt from Attachment to*
18 *Inland Response to Staff Data Request No. 14.* The Suncadia Resort phone
19 number listed in the DexOnline yellow pages is 509-649-3850. The

1 Prospector Golf Course phone number is 509-649-6140. The Prospector Inn is
2 open and providing service to the public.

3

4 **Q. Did Suncadia provide an easement to Inland for these services to the**
5 **resort?**

6 A. Staff believes it did not. As shown in Exhibit No. ____ (PJE-5), there is a
7 limited Right of Entry agreement covering maintenance of the existing
8 facilities between Suncadia and Inland that would not be necessary if an
9 easement for access to the facilities existed.

10

11 4. *Service Availability*

12

13 **Q. What type of services will Inland provide under the contract in Docket No.**
14 **UT-050874?**

15 A. As stated above, this contract would only become effective if Inland’s tariff
16 revision to remove the Suncadia resort from its exchange becomes effective.
17 The proposed contract is for a term of 10 years; specifically limits Inland’s
18 obligation to Suncadia, LLC (the business entity); and does not address
19 service to property owners in the resort. Inland’s obligation under the
20 contract would be limited to the provisioning of existing telecommunications

1 services on the existing 100-pair cable at current tariff rates. At its option,
2 Inland may provide other services at tariffed rates, but would be specifically
3 protected from being forced to build new plant to do so; and if Suncadia
4 needed additional services to operate its business that are not in the current
5 tariff, Suncadia and Inland would be required to negotiate reasonable rates
6 for these additional services, subject to the Commission's approval of the
7 rates, terms and conditions. The proposed contract requires Inland to submit
8 a tariff for the Commission's approval to carry Suncadia's E-911 calls,
9 including ALI and ANI,⁴ and requires Suncadia to support fully the tariff at
10 issue in this adjudication.

11

12 **Q. Can property owners who will be living within the Suncadia resort obtain**
13 **telecommunications services under the contract in Docket No. UT-050874?**

14 A. No. The contract covers existing services to Suncadia, LLC and creates no
15 obligation for Inland to serve any residence. *See Exhibit No. ___ (PJE-4).*

16

17 **Q. Does ICS provide service to any property owners or residents in the**
18 **Suncadia resort?**

19 A. No. ICS does not currently provide service to Suncadia residents.

⁴ Automatic location identification and automatic number identification.

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Q. Will residents of Suncadia be able to demand telecommunications service from Inland if the tariff revision proposed in this Docket goes into effect?

A. No. Inland would not be required to provide service upon demand to Suncadia resort residents if the requested tariff revision goes into effect.

Q. Could another provider of wireline telecommunications services operate in Suncadia?

A. Yes, if it could negotiate an agreement for access to property owners with Suncadia, LLC. However, there is presently no other telecommunications company that has the legal obligation to serve that Inland has today. Intelligent Community Services, Inc., the CLEC described above, although negotiating with Suncadia to provide services to residents of the resort, owns no facilities in Suncadia, and has no geographically defined obligation to provide service on demand like that of Inland (an obligation based on a tariff map).

1 **Q. Will Inland be relieved of its current obligation if the proposed tariff**
2 **revision is allowed to go into effect?**

3 A. Inland will no longer have a defined geographic obligation to provide
4 service on demand to homeowners, property owners, or businesses within
5 the area to be removed from the Roslyn exchange.

6

7 **Q. What will the impact on Suncadia be if the proposed tariff revision is**
8 **allowed to go into effect?**

9 A. Suncadia will be unable to demand service from Inland for the business
10 needs of the resort, except for those services it may request under the
11 pending contract with Inland.

12

13 **Q. Will property owners and residents of the resort lose a benefit to which**
14 **they are entitled if the proposed tariff revision is allowed to go into effect?**

15 A. Property owners and residents that obtain easements from Suncadia, LLC
16 will no longer be entitled to demand services under tariffed rates, terms and
17 conditions from Inland. There will be no other provider of
18 telecommunications services that will have legal obligations comparable to
19 those Inland has today.

20

1 **Q. Did Suncadia inform property owners that Inland would be available to**
2 **provide them with telecommunications services?**

3 A. Yes. Five hundred and one property owners were informed through a
4 disclosure statement provided by Suncadia that Inland would be the
5 telecommunications provider. *See Exhibit No. ___ (DJR-5) – Excerpts from*
6 *Attachments to Response by Suncadia to WUTC Staff Data Request No. 1, Also*
7 *submitted as Response by Suncadia to Inland Data Request No. 4.*

8

9 **Q. Have Suncadia property owners expressed concern about having Suncadia**
10 **arrange telecommunications services by contract instead of having Inland**
11 **offer it under tariff?**

12 A. Staff has not been contacted by any property owners. Staff has no
13 knowledge of any efforts by any of the parties to inform property owners
14 about this proceeding.

15

16 **Q. Does Staff believe Suncadia represents all future residents of the Resort?**

17 A. No. Suncadia stated that of an expected total 2,800 lots, 596 lots had been
18 sold in the Suncadia resort. *Response by Suncadia to Inland Data Request No. 5.*

19 Because almost four times as many lots remain to be sold, Staff believes

20 Suncadia does not represent the interests of future property owners,

1 individually or collectively. The current and future property owners should
2 have an opportunity to seek service from a carrier with a defined geographic
3 obligation to provide service on demand.

4

5 **B. PUBLIC INTEREST**

6

7 **Q. What is at stake for the public in this adjudication?**

8 A. At stake is whether members of the public who purchase lots from Suncadia
9 will have access to Inland’s services in the future if Suncadia ever fails as a
10 business or otherwise changes its business model such that it no longer
11 concerns itself with the availability of telecommunications to property
12 owners. *See Exhibit No. ___T (RS-1T) Pp. 8-16.*

13 The general public, beyond the property owners in Suncadia, have an
14 interest in this case too. The general public’s interest is in the availability of
15 telecommunications services, including wireline telecommunications,
16 consistent with RCW 80.36.300. That statute describes the policy of the state
17 to maintain diversity in the supply of telecommunications and to maintain
18 the efficiency and availability of telecommunications service. *RCW*
19 *80.36.300(2), (5).*

20

1 **Q. Does staff believe the removal of the Suncadia territory from the Roslyn**
2 **Exchange will relieve Inland’s obligation to provide service on demand in**
3 **that area?**

4 A. Yes. RCW 80.36.090 states:

5 “Every telecommunications company operating
6 in this state shall provide and maintain suitable
7 and adequate buildings and facilities therein, or
8 connected therewith, for the accommodation,
9 comfort and convenience of its patrons and
10 employees. Every telecommunications company
11 shall, upon reasonable notice, furnish to all
12 persons and corporations who may apply
13 therefore[sic] and be reasonably entitled thereto
14 suitable and proper facilities and connections for
15 telephonic communication and furnish telephone
16 service as demanded.”

17
18 Staff understands Commission policy to be that the obligation to serve
19 contained within 80.36.090 is limited to the exchange area described by the
20 tariff map.

21
22 **Q. Does Staff believe reducing Inland’s obligation to provide service on**
23 **demand is in the public interest?**

24 A. No. Staff believes the tariff filing asks the Commission to tip the balance of
25 the public interest test to protect private business interests over consumers.

26 While it is proper for Inland Telephone Company and Suncadia to seek

1 predictability and to earn a profit, it is improper for either one or both to seek
2 a change that will increase uncertainty for consumers while increasing
3 potential profit for the company.

4 Staff believes that removing Inland’s obligation to serve reduces
5 certainty for residents of Suncadia resort, leaving them now, and in the
6 future, without ready access to telecommunications service from a local
7 exchange company. It is Washington state’s policy to “maintain and advance
8 the efficiency and availability of telecommunications service.” RCW
9 80.36.300(2).

10

11 **Q. Does any other telecommunications company have an existing obligation**
12 **to serve the Suncadia area?**

13 A. Yes. Robert Shirley’s testimony addresses eligible telecommunications
14 company obligation issues. *See Exhibit No. ___T (RS-1T) Pp. 3, l. 14-20.*

15

16 **Q. Should the existence of wireless companies with possible obligations to**
17 **serve affect the decision in this case?**

18 A. No, for the reasons discussed in Robert Shirley’s testimony. *See Exhibit No.*
19 *___T (RS-1T) Pp. 4, l. 1 – Pp. 7, l. 18.*

20

1 **Q. Should the intended plan of ICS to provide service through an agreement**
2 **with Suncadia affect the decision in this case?**

3 A. No. ICS is not currently providing service to residents of Suncadia, and has
4 not stated that it plans to operate like an incumbent local exchange carrier. If
5 ICS or another company were willing to take on a geographically defined
6 obligation to provide service on demand, Staff might take a different view of
7 this filing. However, no company has stepped forward to offer that level of
8 service.

9

10 *1. General Test for Removing An Area from an Exchange*

11

12 **Q. In the opinion of staff, has Inland satisfied the test used by the**
13 **commission in past cases to determine whether reducing a company's**
14 **obligation to provide service on demand is in the public interest?**

15 A. No. In previous decisions, the Commission has removed an obligation to
16 serve when effective competition exists. In Docket No. UT-031191, a petition
17 by AT&T Communications of the Pacific Northwest, Inc., the Commission
18 removed a condition to provide services statewide that had been imposed in
19 a competitive classification proceeding, Docket No. U-86-113. Inland has

1 made no claim that effective competition exists or will exist in the Suncadia
2 area.

3

4 **Q. Could a resident of Suncadia force Inland to provide service under**
5 **Inland's current tariff? What course might that resident follow?**

6 A. Yes. If the proposed tariff is not approved, then a resident of Suncadia might
7 be in a position to sue Suncadia in civil court for an easement across the
8 private roads of the resort. If an easement were granted, the resident could
9 demand service from Inland, and if Inland refused service at that time, the
10 Commission could act to compel Inland to provide service.

11

12 **Q. Suncadia witness Mr. Eisenberg has testified that Suncadia is negotiating**
13 **a definitive agreement with Intelligent Community Services to provide**
14 **telecommunications services to premises within the resort. If executed,**
15 **why would this agreement not suffice to protect the interests of property**
16 **owners in having telecommunications services at reasonable prices?**

17 A. Property owners within Suncadia are not party to the negotiations for
18 telecommunications services between Suncadia and ICS. If a contract is
19 executed between Suncadia and ICS, it will benefit the business interests of

1 both companies. Staff can only speculate what benefit there might be for
2 customers, and at what cost.

3 In the usual case where a competitive company provides services in
4 an area served by an incumbent, it must provide a service that is more
5 attractive to consumers than that of the incumbent telephone company. This
6 is typically accomplished through lower prices, more available features, or
7 better service quality. In this case, however, if Inland is allowed to withdraw
8 from the Suncadia area, ICS could acquire the opportunity to act as a
9 monopoly without any of the restraint imposed by competition or by tariff.
10 ICS wouldn't be obliged file tariffs, and the agreement with Suncadia for the
11 use of its facilities wouldn't be subject to Commission review.

12

13 *2. Staff Argument*

14

15 **Q. Could anyone be harmed by the removal of Suncadia territory from the**
16 **Roslyn Exchange?**

17 A. Yes. Inland currently plans to continue service to the Suncadia business
18 entity under contract rather than under its tariffed obligation to serve.

19 However, once the Suncadia territory is removed from Inland's service

20 territory, it is not clear that anyone living within the Suncadia resort will be

1 reasonably entitled to service, as is the case when RCW 80.36.090 applies.
2 Even if residential customers could obtain services through Suncadia under
3 the contract with Inland, customers are not guaranteed tariff rates, reviewed
4 by the Commission for the usual criteria: fair, just, reasonable, sufficient and
5 in the public interest.

6

7 **Q. Would Inland be financially harmed if the Suncadia territory remained in**
8 **the Roslyn Exchange?**

9 A. Absolutely not. Inland has provided no evidence of financial harm from
10 keeping this territory within the Roslyn Exchange.

11

12 **Q. In the direct testimony of the Company's witness Mr. Coonan, in Exhibit**
13 **No. ___T (JPC-1T) at page 2, he states that this filing better defines the area**
14 **in which Inland can reasonably provide service to those customers that**
15 **request Inland's service. Do you believe that a tariff filing is necessary for**
16 **Inland to refuse service?**

17 A. No. Inland states repeatedly that it does not have an easement for access to
18 the individual residents of the Suncadia resort. According to WAC 480-120-
19 061(1)(h), "a company may refuse to connect with ... an applicant ... [w]hen
20 all necessary rights of way, easements, and permits have not been secured."

1 In addition, “the applicant is responsible for securing all necessary rights of
2 way or easements on private property...” Staff believes the existence of this
3 rule, promulgated after careful consideration by the Commission, anticipated
4 the very situation in which Inland finds itself.

5

6 **Q. In the direct testimony of the Company’s witness Mr. Coonan, Exhibit No.**
7 **___T (JPC-1T) at page 5, Mr. Coonan states that Inland’s image may be**
8 **tarnished if it refuses service. Do you find this argument persuasive?**

9 A. No, we do not. Inland’s statement assumes that the customer will be
10 uninformed about his or her options for telecommunications services.
11 However, Staff believes this discussion avoids the real issue, which is
12 whether or not it is in the public interest for future residents of Suncadia to
13 be able to fulfill their telecommunications services needs by calling on
14 Inland, a company with a defined geographic obligation to provide service
15 on demand, if easements become available.

16

17 **Q. What do you believe is the central issue advocated by Inland as the reason**
18 **for the Commission to approve the tariff?**

19 A. Inland appears concerned that in the future, residents of Suncadia will not
20 understand that Suncadia’s failure to provide an easement to Inland is the

1 reason Inland refuses to serve residences, that residents will form a low
2 opinion of Inland as a result, and that residents may give voice to that low
3 opinion, thereby harming Inland's reputation.

4

5

V. CONCLUSION

6

7 **Q. Please summarize your recommendation.**

8 A. This tariff filing should not be approved. Inland's only concern, that its
9 image may be tarnished, is at best speculative and, even if it should prove
10 true, it is not sufficient to find that the tariff as proposed is in the public
11 interest.

12 In addition, Inland has provided no testimony that it has been or will
13 be harmed financially, or that it could be harmed financially to an extent that
14 would jeopardize service to existing or future customers that rely on Inland's
15 service.

16 The status quo results in no present or future harm to Inland and
17 provides certainty to present and future residents of Suncadia that, if they
18 are successful in obtaining easements, the residents will have available to
19 them telecommunications service consistent with the policies of the state of
20 Washington found in RCW 80.36.090 and RCW 80.36.300.

1 In making its decision, the Commission should bear in mind the
2 potential precedent that would be set by this case. Once approved, every
3 other incumbent telecommunications carrier in the state could ask to have its
4 statutory obligation to serve decreased in the same way.

5

6 **Q. Does this conclude your testimony?**

7 **A. Yes, it does.**