

BEFORE THE WASHINGTON
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

DIRECT TESTIMONY

OF

Keith Southard

On Behalf of

Intelligent Community Services, Inc.

May 23, 2008

1 Marketing for the US. Allied Telesyn is a manufacturer of networking and teleco
2 equipment.

3 – Alaska Communications Systems, Inc. and its predecessor company Anchorage
4 Telephone Utility from 1992 to 2000 where I held several positions including Senior
5 Product Manager, Director of Residential Business services, and Plant Operations
6 Manager.

7 I have a Bachelors Degree from Wayland University, and graduated from the Executive
8 Marketing Management program at Stanford University.

9 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION?**

10 A. No, I have not.

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

12 A. The purpose of my testimony is to support the petition of ICS for designation as an ETC.
13 Specifically, 47 C.F.R. § 54.201(d) establishes the Federal Communications
14 Commission's ("FCC's") requirements for ETCs, and WAC 480-123-040 provides, "The
15 commission will approve a petition for designation as an ETC if the petition meets the
16 requirements of WAC 480-123-030, the designation will advance some or all of the
17 purposes of universal service found in 47 U.S.C. § 254, and the designation is in the
18 public interest." My testimony addresses all of these issues and demonstrates that the
19 Commission should approve ICS's petition.

20

Compliance with FCC and Commission Rules

Q. DOES ICS SATISFY THE REQUIREMENTS IN 47 C.F.R. § 54.201(D)?

A. Yes. The Commission has registered and classified ICS as a competitive telecommunications company, and ICS currently is providing telecommunications service to customers in the Roslyn exchange. As I describe in greater detail below, ICS serves those customers using facilities that ICS has constructed itself, in conjunction with facilities that ICS is leasing from Suncadia, the owner and developer of the Suncadia resort area. ICS, however, will not limit its service offerings to that area but will advertise and offer telecommunications services that are supported by federal universal service support mechanisms throughout the Roslyn exchange. ICS will initially use resale to provision such services outside the Suncadia resort area where ICS has not yet extended its network, but ICS plans to construct its own facilities in other parts of the exchange.

Q. HAS ICS MET THE COMMISSION'S REQUIREMENTS FOR DESIGNATION AS AN ETC?

A. Yes. Attached as Exhibit KS-2 is the Amended Petition for Designation as an ETC that ICS filed with the Commission. The information in the Amended Petition, as supplemented by my testimony, demonstrates that the Commission should designate ICS as an ETC.

Q. HOW WILL ICS PROVIDE THE SUPPORTED SERVICES IN THE ROSLYN EXCHANGE?

A. Paragraphs 22 through 34 in the Amended Petition describe the individual supported

1 services required of an ETC that ICS offers or provides in the Roslyn exchange and a
2 description of how ICS provides or will provide those services.

3 **Q. WHAT IS ICS'S SUBSTANTIVE PLAN OF THE INVESTMENTS TO BE MADE**
4 **DURING THE FIRST TWO YEARS IN WHICH SUPPORT IS RECEIVED AND**
5 **A SUBSTANTIVE DESCRIPTION OF HOW THOSE EXPENDITURES WILL**
6 **BENEFIT CUSTOMERS?**

7 A. Paragraphs 35 and 36 in the Amended Petition describe ICS's substantive plan of the
8 investments to be made during the first two years in which support is received and a
9 substantive description of how those expenditures will benefit customers. In addition,
10 ICS plans to construct its own network facilities into the portion of the Roslyn exchange
11 served by Inland Telephone Company ("Inland") so that ICS can offer more consumers in
12 that exchange a landline facilities-based alternative to Inland's services. Over the next
13 two years, ICS anticipates investing over \$2 million in such network expansion, in
14 addition to the more than \$1.5 million ICS has already invested in network infrastructure
15 to serve the Roslyn exchange. The revenues that ICS currently receives, and can
16 reasonably anticipate receiving in the next two years, from the rates it charges its
17 customers will not be sufficient to cover these expenditures. Universal service support,
18 therefore, is critical to the ability of ICS to bring a competitive alternative for basic and
19 advanced services to consumers in the Roslyn exchange.

20 **Q. HOW WILL ICS REMAIN FUNCTIONAL IN EMERGENCY SITUATIONS,**
21 **INCLUDING COMPLYING WITH WAC 480-120-411?**

22 A. Paragraph 39 of the Amended Petition describes how ICS will remain functional in
23 emergency situations, including a description of how ICS complies with WAC 480-120-

1 411.

2 **Q. WILL ICS COMPLY WITH THE APPLICABLE CONSUMER PROTECTION**
3 **AND SERVICE QUALITY STANDARDS OF CHAPTER 480-120 WAC?**

4 A. Yes. Paragraphs 40 through 46 in the Amended Petition describe how ICS will comply
5 with these standards.

6

7 **Advancing the Purposes of Universal Service**

8 **Q. IS DESIGNATION OF ICS AS AN ETC CONSISTENT WITH THE PURPOSES**
9 **OF UNIVERSAL SERVICE AND WILL IT ADVANCE SOME OR ALL OF THE**
10 **PURPOSES OF UNIVERSAL SERVICE SET FORTH IN 47 U.S.C. § 254?**

11 A. Yes. Designation of ICS as an ETC in the Roslyn exchange is consistent with, and will
12 advance, the three primary purposes of universal service as Congress listed them in
13 Section 254(b) of the Telecommunications Act of 1996 (“Act”). Those purposes are:

14 (1) **Quality and rates** – Quality services should be available at just,
15 reasonable, and affordable rates.

16 (2) **Access to advanced services** – Access to advanced
17 telecommunications and information services should be provided in all
18 regions of the Nation.

19 (3) **Access in rural and high cost areas** – Consumers in all regions of the
20 Nation, including low-income consumers and those in rural, insular, and
21 high cost areas, should have access to telecommunications and information
22 services, including interexchange services and advanced
23 telecommunications and information services, that are reasonably

1 comparable to those services provided in urban areas and that are available
2 at rates that are reasonably comparable to rates charged for similar services
3 in urban areas.

4 **Q. HOW WILL DESIGNATION OF ICS AS AN ETC ADVANCE THESE**
5 **PURPOSES?**

6 A. ICS currently is using the Suncadia fiber infrastructure in conjunction with ICS's own
7 facilities to provide state-of-the-art communications services. ICS offers not just basic
8 voice services but also broadband video and internet access services at speeds that are not
9 available from any other provider in that region at rates that are comparable to those
10 charged by other providers. ICS plans to invest more than \$4.2 million over the next two
11 years to expand its network into the remainder of the Roslyn exchange and into the
12 adjacent Cle Elum Urban Growth Area. ICS is seeking outside investment to fund that
13 expansion, and the availability of USF support for the basic telecommunications services
14 that ICS will offer is a major selling point for potential investors and will help ensure that
15 ICS will be able to recover its costs to provide service in those areas.

16
17 The USF support that ICS would receive as an ETC thus would be used for the primary
18 purposes for which such funding was created – to bring advanced telecommunications
19 and information services to rural areas that are comparable to the services provided in
20 urban areas and at comparable rates.

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Public Interest Determination

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Q. IS THE DESIGNATION OF ICS AS AN ETC IN THE PUBLIC INTEREST?

A. Yes. Paragraphs 12 and 13 of the Amended Petition describe how designation of ICS as an ETC in the Roslyn exchange is in the public interest.

Q. TO WHAT EXTENT DOES COMPETITION EXIST IN THE ROSLYN EXCHANGE IN GENERAL AND IN THE SUNCADIA RESORT AREA IN PARTICULAR?

A. Multiple carriers provide basic telecommunications services in the Roslyn exchange in general and in the Suncadia resort area in particular. The Commission has previously designated at least four ETCs for the Roslyn exchange, three of whom are wireless carriers. In addition, wireless carriers who have not sought ETC designation, such as T-Mobile, provide telecommunications service in this exchange. All of these carriers also offer or provide service within the Suncadia Resort Area, including Inland, to a limited extent, which has constructed a 100 pair cable to provide service to Suncadia's Discovery Center. Inland currently is the only wireline provider of local exchange service in the Roslyn exchange outside of the Suncadia resort area, and ICS must rely on resale of Inland services to compete with Inland until ICS is able to construct its own facilities into that part of the exchange.

Q. DO OTHER WIRELINE LOCAL EXCHANGE CARRIERS HAVE ACCESS TO CUSTOMERS IN THE SUNCADIA RESORT AREA?

A. Yes. Suncadia requires any wireline provider of communications services to use the fiber infrastructure that Suncadia has constructed within the resort area to provide service to residents and businesses in that area. ICS has an agreement with Suncadia to use that

1 infrastructure, and a copy of that agreement is attached to this testimony as Highly
2 Confidential Exhibit KS-3HC. The agreement is not exclusive, and I am not aware of any
3 legal impediment to another carrier obtaining access to the Suncadia fiber infrastructure,
4 either directly from Suncadia or through ICS.

5 **Q. WHAT INFRASTRUCTURE IS ICS OR SUNCADIA PROVISIONING (OR**
6 **PLANNING TO PROVISION) TO WHICH OTHER LOCAL EXCHANGE**
7 **CARRIERS WOULD NEED ACCESS IN ORDER TO PROVIDE**
8 **TELECOMMUNICATIONS SERVICE TO CUSTOMERS IN THE SUNCADIA**
9 **RESORT AREA?**

10 A. Suncadia has constructed a backbone fiber infrastructure throughout the resort area,
11 which is comparable to the fiber optic rings that competitive local exchange carriers
12 (“CLECs”) have constructed to form the basis of their networks. ICS has constructed a
13 Network Operations Center (“NOC”) that provides the electronics, including switching
14 functionalities, to transmit and receive communications over that fiber and that connects
15 the Suncadia infrastructure to ICS’s network. In addition, ICS has constructed the
16 connections or “spurs” from the fiber backbone to the individual buildings and residences
17 within the resort area – the equivalent of the “drop” portion of a wireline loop.

18
19 A wireline carrier that wants to provide service to residents in the Suncadia resort area
20 has three options. First, such a carrier could do what ICS has done and construct a NOC
21 or equivalent connection between the Suncadia infrastructure and the carrier’s network,
22 as well as the connections from that infrastructure to the premise where the service will
23 be provided. A second option is that the carrier could obtain telecommunications services

1 from ICS on a wholesale or resale basis. Finally, the wireline carrier could extend
2 services to the ICS NOC and cross connect to the fiber infrastructure under a negotiated
3 agreement with ICS to do so. Suncadia, however, does not permit any wireline carrier,
4 including ICS, to otherwise construct its own network facilities within the resort area.

5 **Q. ARE BOTH SUNCADIA AND ICS SEPARATELY WILLING TO PROVIDE**
6 **ACCESS TO SUNCADIA'S COMMUNICATIONS INFRASTRUCTURE TO**
7 **CARRIERS OTHER THAN ICS ON THE SAME OR COMPARABLE TERMS**
8 **AND CONDITIONS AS THOSE UNDER WHICH ICS HAS ACCESS TO**
9 **SUNCADIA'S COMMUNICATIONS INFRASTRUCTURE?**

10 A. I cannot speak for Suncadia, but ICS, for its part, is willing to provide access to the
11 Suncadia infrastructure, including resale or wholesale telecommunications services
12 provisioned over that infrastructure to other carriers to enable them to serve customers
13 within the resort area. Indeed, ICS is already providing such services. ICS is providing
14 the equivalent of a private line circuit to a wireless carrier to enable that carrier to
15 provision a wireless "hot spot" in the Suncadia lodge. ICS is also in discussions with
16 Inland to establish the terms and conditions under which Inland may resell ICS's services
17 should Inland choose to do so.

18 **Q. IS ICS AFFILIATED WITH SUNCADIA OR ANY OF ITS PRINCIPALS?**

19 A. No. ICS has no ownership or other financial interest in Suncadia, and neither Suncadia
20 nor any of its principals have any ownership or financial interest in ICS.

21 **Q. IS ICS ENGAGED IN CREAM SKIMMING?**

22 A. Absolutely not. My understanding of the term "cream skimming" in this context is that it
23 refers to targeting customers who are less costly to serve but who generate the highest

1 revenues. ICS currently serves fewer than 100 customers in the Suncadia resort area, and
2 the revenues that ICS generates from those customers for both regulated and nonregulated
3 services do not even cover the salary of the technician that ICS employs on site to oversee
4 its operations, much less contribute to recovery of the costs that ICS has incurred to
5 construct its network. At the anticipated annual growth rate of 75-100 lines per year in
6 the Suncadia resort area, ICS will be unable to recover all of its costs to provide service in
7 that area from customer revenues alone in the foreseeable future. Serving customers at a
8 loss is not cream skimming.

9
10 ICS is serving the Suncadia resort area as a preliminary step toward providing
11 communications services throughout the Roslyn exchange and the Cle Elum Urban
12 Growth Area. ICS located and sized its NOC with this ultimate goal in mind – indeed,
13 ICS would have installed a much smaller NOC much closer to the center of the resort if
14 that were the only area ICS intended to serve. ICS intends to be a provider of basic and
15 advanced communications services to a broad array of customers in the region, not just to
16 the residents of the Suncadia resort area. ICS is not engaging in cream skimming and has
17 no intentions of doing so.

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Other Issues

Q. WHAT EFFECT, IF ANY, DOES THE FCC’S RECENT DECISION TO CAP UNIVERSAL SERVICE FUNDING TO COMPETITIVE ETCs HAVE ON ICS’ PETITION?

A. The FCC’s recent order does not have any significant impact on ICS’s Petition. I am not an attorney, but my understanding of that order is that the FCC capped the amount of support competitive ETCs could receive but did not in any way limit the number or eligibility of new competitive ETCs. As I understand it, the cap the FCC adopted may reduce the amount of USF support that ICS would receive if it were designated as an ETC, but that ICS’s total eligibility would be reduced by the same percentage that applies to all competitive ETCs in Washington. In addition, the FCC indicated that the cap is temporary and will remain in place only until the FCC adopts more broad-based USF reforms. Naturally, ICS would prefer to receive the full amount of support for which ICS would be eligible – particularly when Inland does not face any reduction in the USF support it receives as a result of the FCC order – but even reduced USF support for ICS will provide the benefits I have described to consumers in the Roslyn exchange.

Q. ARE THERE OTHER FACTORS THAT SHOULD BE CONSIDERED IN EVALUATING THE PETITION FILED BY ICS?

A. None that I am aware of at this time.

Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes, it does.