

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

WASHINGTON UTILITIES AND	)	DOCKET UT-050606
TRANSPORTATION COMMISSION,	)	
	)	
Complainant,	)	ORDER 09
	)	
v.	)	
	)	
INLAND TELEPHONE COMPANY,	)	FINAL ORDER AFFIRMING
	)	INITIAL ORDER; REJECTING
Respondent.	)	TARIFF REVISION
	)	
.....	)	

1 *Synopsis: This order affirms in full the result of an initial order in this docket. In doing so, this order rejects Inland’s proposed tariff revision that would remove from its service area territory of a large new resort. The Commission finds that Inland did not adequately support its proposal.*

**I. PROCEDURAL SETTING**

2 **NATURE OF PROCEEDING.** On April 19, 2005, Inland Telephone Company (“Inland”) filed a tariff that seeks to remove from its service territory the area in Inland’s Roslyn exchange now occupied by a developing Suncadia Resort.<sup>1</sup> On June 29, 2005, the Commission suspended the proposed tariff revision and directed that it be set for hearing.

3 **HEARING AND INITIAL ORDER.** Hearing was held on April 27 and 28, 2006, at Olympia, Washington before Administrative Law Judge Theodora Mace. The Administrative Law Judge entered an initial order on August 3, 2006, in which she denied Inland’s proposed tariff.

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<sup>1</sup> The tariff would also add area north of the Roslyn exchange. No party objected to Inland’s proposed addition to its service territory, but because the record contains no evidence in support of the addition, the proposed addition is also denied.

4 **PETITION FOR ADMINISTRATIVE REVIEW; ANSWERS.** Inland petitions for administrative review of the initial order, arguing that it met all necessary tests for approval of such a tariff. The Commission received answers from Commission Staff; Suncadia; ICS, a telecommunications provider now serving within the Suncadia territory, and Public Counsel. Inland replied to the answers.

5 **APPEARANCES.** Richard A. Finnigan, attorney, Olympia, Washington, represents Inland. Judith Krebs, Assistant Attorney General, Seattle, Washington, represents the Public Counsel Section of the Washington Office of the Attorney General (Public Counsel). Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff). John L. West and Richard M. Peterson, attorneys, Seattle, Washington, represent Suncadia LLC (Suncadia). Gregory J. Kopta, attorney, Seattle, Washington, represents Intelligent Community Services (ICS).

## II. FACTUAL SETTING

6 **BACKGROUND.** Inland is a small regulated telephone company based in Cle Elum, Washington, in the Cascade Mountains about 70 miles east of Seattle. It provides service to about 2,800 lines belonging to about 1,000 customers.

7 This case involves the provision of telecommunications service within the boundaries of Suncadia, a resort development of about 6,000 acres located near Roslyn, Washington, and within Inland's service territory. Suncadia may eventually include 2,800 single-family dwellings, three golf courses, and commercial businesses, for an estimated total of about 4,000 connections.<sup>2</sup> Suncadia has included no public rights of way within its boundaries, and has constructed its own complete telecommunications infrastructure.

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<sup>2</sup> As of September 8, 2005, Suncadia had sold 596 lots. Several houses are complete and over a hundred are under construction. Suncadia's sales center, golf courses, a pro shop, and a hotel are operating, and a restaurant has been completed.

- 8 Inland is the incumbent local exchange carrier (ILEC) providing telecommunications service to the area.<sup>3</sup> With one exception, Inland provides no service within the Suncadia boundaries, as the land was previously undeveloped. The exception is service to Suncadia's business offices. By its petition, Inland seeks to remove the Suncadia resort area from its service territory.
- 9 Intelligent Community Services (ICS) is a competitive local exchange carrier (CLEC) and an intervenor in this proceeding. It has entered an agreement with Suncadia to provide service within the whole development, using Suncadia's infrastructure and paying Suncadia for the use of that infrastructure. ICS has also requested Commission approval to serve as a wireless Eligible Telecommunications Carrier (ETC) throughout Inland's service territory.<sup>4</sup> An ETC designation, governed by 47 USC § 214(e), allows a carrier to become eligible for federal universal support funds (USF). The Commission has previously approved three wireless ETCs for the Roslyn exchange.
- 10 Inland currently provides only limited service to Suncadia's sales office under a June 1, 2005 agreement intended to ensure Inland's continuation of its present tariffed services to Suncadia even if Suncadia is removed from Inland's service territory. Inland engaged in discussions with Suncadia about providing service to the whole development. The parties reached an impasse. Inland did not offer to provide the full range of telecommunications services that Suncadia wanted for its residents. For its part, Suncadia refused to grant Inland a long-term easement for Inland's telecommunications facilities and requested that Inland pay a fee based at least in part on Inland's revenues from operations using the Suncadia infrastructure.
- 11 As a result of the impasse, Inland filed this tariff revision requesting that Suncadia be removed from its service territory.

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<sup>3</sup> Public Counsel's Initial Brief to the Administrative Law Judge, p. 13, describes the history of the telecommunications franchise granted for service to the Roslyn exchange, including the area now known as Suncadia.

<sup>4</sup> Docket UT-053041, filed June 29, 2005. The matter has been held pending the outcome of this proceeding.

### III. CONTENTIONS, ANALYSIS, AND CONCLUSIONS

12 In summary, we find that Inland has failed to demonstrate that it meets the applicable standards for vacating service territory, and therefore its proposed tariff should be rejected.

#### A. APPLICABLE STANDARDS.

13 The initial order determined that a carrier seeking to vacate territory must demonstrate that the result is consistent with the public interest. In this setting, that means the Commission considers whether the post-vacation result would help or harm the public and potential customers within the territory proposed, and whether it would help or harm the carrier and its ability to provide service.

14 Inland disputes the application of a public interest test, asking in its reply brief for citations to such a test. We find numerous appropriate sources for a public interest test, and for the dimensions of its application here, in the initial order and in the briefs opposing Inland's position.

15 The Commission has a basic statutory mandate to regulate in the public interest.<sup>5</sup> As the initial order notes in the context of furthering the goal of widespread service, the courts have defined the public interest as a "broad concept encompassing the welfare of present and future consumers, stakeholders and the general public."<sup>6</sup>

16 In determining whether the public interest is served, we must consider the telecommunications policy declaration in RCW 80.36.300, requiring the Commission to consider the preservation of affordable universal service; the maintenance of efficient available telecommunications service; whether customers pay reasonable charges for service; whether cross-subsidization of non-regulated services is avoided; whether diversity of suppliers is promoted; and, whether flexible regulation of competitive services is permitted.

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<sup>5</sup> RCW 80.01.040 states that the Commission "shall: (3) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation..."

<sup>6</sup> *Washington Independent Telephone Association v. WUTC (WITA)*, 149 Wn.2d. 17, 28, fn. 3 (2003).

- 17 RCW 80.36.230 gives the Commission the power to set territorial and exchange boundaries for telecommunications companies. In setting such boundaries, the Commission must act consistently with the basic policy direction to act in the public interest.<sup>7</sup> Under RCW 80.36.090, telecommunications carriers are required to provide service “upon reasonable notice...to all persons and corporations who may apply therefor and be reasonably entitled thereto...” In addition, RCW 80.36.080 requires that “rules and regulations of telecommunications companies [here including tariffs defining service territories] ...shall be fair, just, reasonable and sufficient.”
- 18 In a prior case, the Commission addressed whether to allow a carrier to reduce its prescribed service territory.<sup>8</sup> There, we considered whether removal was fair, just, and reasonable and would serve the public interest. The Commission considered whether removal of a service would cause detrimental consequences for present and potential customers<sup>9</sup> and whether a company’s obligation to serve in its currently established service territory imposed “severe and unique economic burdens” on the company.<sup>10</sup>
- 19 The appropriate test for consideration in this matter is whether the proposed excision of Suncadia from Inland’s service territory is fair, just, and reasonable and in the public interest. In determining whether Inland meets that test, we will consider the effect of the proposal on Inland, its customers, and potential customers in the territory sought for deletion.

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<sup>7</sup> RCW 80.01.040.

<sup>8</sup> *See, WUTC v. U.S. WEST Communications, Inc.*, Docket No. UT-961638, Fourth Supplemental Order Rejecting Tariff Filing, January 16, 1998, p. 16, 20 (*US WEST*). The initial order expressed reservations against unqualified citation to the *US WEST* decision because of changes in the telephone regulatory environment since that matter was decided; we agree, but find that in general terms the approach of the order remains appropriate in this matter.

<sup>9</sup> *US WEST*, p. 15.

<sup>10</sup> *Id.*, p. 20. In the *US WEST* order, the Commission also balanced the harms suffered by the incumbent carrier in carrying out its statutory obligation to serve under RCW 80.36.090 against the benefits the carrier received as a regulated carrier.

## B. BURDEN OF PROOF

20 Inland argues that it has only a “burden of initial proceeding,” as opposed to a burden of proof, and must only come forward with evidence supporting its proposal in order to prevail. We disagree.

21 As Commission Staff points out, the Commission has previously placed the burden of proof on a carrier proposing a reduction of its service territory. In addition, Inland cites no authority for placing the burden of proof on the Commission and reversing the rule of law that the proponent of change bear the burden of persuasion.<sup>11</sup>

## C. APPLICATION OF THE PUBLIC INTEREST TESTS

22 Inland argues the Commission should approve the tariff revision because: 1) Suncadia refuses to grant Inland a long term easement or enter into an appropriate contract allowing physical access to customers in the Suncadia resort and Inland cannot therefore actually provide service; 2) Inland and its customers will suffer financial and other harms if Suncadia is permitted to remain part of Inland’s service territory; 3) other eligible telecommunications carriers are authorized to serve the Suncadia area and ICS could be required to serve the resort under RCW 80.36.090; and 4) allowing the tariff revision would eliminate alleged arbitrage of Universal Service Fund (USF) support by ICS.

23 We find that Inland has failed to prove its assertions as to any of these contentions.

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<sup>11</sup> See *Wilder v. Nolte*, 195 Wash. 1, 14, 79 P.2d 682 (1938) (“[H]e who affirms always has the burden”); *State v. Anderson*, 72 Wn. App. 253, 260, 863 P.2d 1370 (1993) (“[A] claimant generally has the burden of proving the facts necessary to sustain his or her claim”). See also, 29 Am Jur 2d § 158:

Courts often remark that the burdens of production and persuasion on an issue rest with the party that pleads the affirmative on the issue.... It is often said that the burdens of production and persuasion lie upon the party who, absent meeting his burden, is not entitled to relief, or upon the party that would be unsuccessful if no evidence were introduced on either side. Similarly, courts often observe that the burdens of production and persuasion generally fall upon the party seeking a change in the status quo... (citations omitted).

**1. Long-term easement and lack of contract permitting service.**

24 Inland argues that because Suncadia did not grant Inland a long-term easement allowing Inland to build its own telecommunications infrastructure, Inland cannot physically serve any customers in Suncadia unless it pursues a condemnation action under RCW 80.36.010 – with all the litigation and use costs associated with the action. Inland argues that thus it is for all intents and purposes unable to fulfill its obligation to serve anywhere within Suncadia’s borders under RCW 80.36.090.

25 We reject Inland’s arguments.

26 First, RCW 80.36.090 does not automatically require a carrier to provide service on request, but only when a potential customer is “reasonably” entitled to service. Inland does not now know the situation it would face—whether an applicant would be reasonably entitled to service and exactly what barriers Inland would face in providing service. The evidence does not resolve those questions, and we must await actual events or other demonstration that specific barriers are probable. The evidence on this record does not support any such finding.

27 Second, Inland could provide service to Suncadia customers over Suncadia’s infrastructure. Inland argues that an agreement allowing it to serve Suncadia, over the Suncadia infrastructure, is unlikely on reasonable terms and conditions.<sup>12</sup> Inland cites to asserted challenges during its initial discussions with Suncadia as proving the likelihood that it would be unable to secure access. We reject its contentions.

28 Inland’s discussions with Suncadia, as shown on the record, consisted largely of trading statements of interest and position, rather than serious negotiations in good faith. The fact that such discussions failed to produce results are not persuasive evidence that results are unobtainable. The initial negotiations between the parties were premised on Inland’s construction of its own infrastructure. Inland’s claim that the parties (Inland, Suncadia and ICS) would not be able to agree on reasonable terms

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<sup>12</sup> Inland Reply brief, p. 16.

and conditions for third party service by Inland is speculative because the parties have never attempted to negotiate such an agreement.<sup>13</sup>

29 Inland has failed to demonstrate that lack of physical access to Suncadia by easement supports approval of the proposed tariff revision.

## 2. Potential harm to Inland and its customers.

30 **A. Cost burden.** Inland argues that costs of condemnation or construction for a small customer base would be prohibitive, and that costs for service over Suncadia’s infrastructure might require it to increase charges to customers within the Suncadia borders. We reject these arguments.

31 Under WAC 480-120-061(1)(h)<sup>14</sup> the costs of securing an easement would fall on the customers requiring it. Inland has not identified any costs that would probably result from rejection of its tariffs, nor has it identified the probable magnitude of such costs to ascertain whether they would be severe and unique. Inland has not demonstrated how costs to provide service using another company’s infrastructure would differ—if they actually were higher than average costs—from costs to service any other high-cost or low-cost customer.<sup>15</sup>

32 **B. Revenue sharing.** Inland contends that the initial order acknowledged that revenue sharing would be required if Inland agreed to serve Suncadia customers over the resort’s infrastructure, and it argues that sharing of revenue for basic services is presumably unlawful. Inland alleges that because a confidential agreement between Suncadia and ICS requires sharing of basic service revenues, Inland would also be

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<sup>13</sup> TR 47-48 (Coonan).

<sup>14</sup> That subsection reads,

(1) A company may refuse to connect with, or provide service to, an applicant under the following conditions: (h) When all necessary rights of way, easements, and permits have not been secured. The company is responsible for securing all necessary public rights of way, easements, and permits, including rights of way on every highway as defined in RCW [36.75.010](#)(11) or created under RCW [36.75.070](#) or [36.75.080](#). The applicant is responsible for securing all necessary rights of way or easements on private property, including private roads or driveways as defined in RCW [36.75.010](#)(10). A private road or driveway is one that has been ascertained by the company not to be public.

<sup>15</sup> Inland challenged an “intuitive” statement in the discussion portion of the initial order. As we find a lack of evidence for any finding on this topic, the statement in the order carries no weight and we do not consider it.



required to share basic service revenues—unlawfully—if it entered into an agreement with either Suncadia or ICS.

33 Because Inland has not entered into any agreement to serve Suncadia, it is not certain whether or what type of revenue sharing might exist. Inland does not provide either facts or law that would demonstrate that it could only serve customers in Suncadia by entering an unlawful agreement.<sup>16</sup> Without any clearly framed contract provisions before us, it is premature to decide that impropriety exists.

34 **C. Conclusion.** We conclude that Inland has failed to show it or its customers would suffer any harm that would support our approval of its proposed tariff.

### **3. Potential harm to the public interest.**

35 **A. Alternative telecommunications suppliers.** Inland asserts error in the initial order’s failure to find that alternative telecommunications suppliers would adequately meet the needs of customers within Suncadia’s borders. Inland says that its proposal would not change service availability in the Suncadia territory.

36 **i. The “no change” argument.** Inland says first that it has not been providing service there anyway, and likely will not be able to do so in the future.

37 Inland is correct that it is currently not providing tariffed telephone service in Suncadia (except Inland’s service to the Suncadia business offices) and that it is unlikely that Inland will be able to provide wireline service with its own network, at least in the near future. However, as the designated incumbent in the territory, Inland has had an obligation to provide tariffed service within the Roslyn exchange. If its proposal is approved, no carrier will have that obligation and customers will not have the same rights to service that they do with a tariffed incumbent. Even the availability of Inland as a possible carrier of last resort, whether or not it ultimately provides

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<sup>16</sup> Inland contends that such sharing would violate RCW 80.36.170 and RCW 80.36.180, which forbid unreasonable rate discrimination and rate preferences. Inland’s argument might be valid, or it might fall if the arrangement is seen as indistinguishable from other situations in which costs for service to different customers are different. There is simply no evidence in the record to support a decision. Similarly, Inland’s contention that revenue-based charges might amount to unlawful sharing of Universal Service Fund (USF) revenues may differ with both facts and perspectives, and are not adequately posed or argued for resolution in this docket.

wireline service within the Suncadia territory, could have a beneficial effect on service availability and cost within the affected area.

38 **ii. *The wireless option.*** Inland also argues that removing it as the designated incumbent would not harm the public interest because Section 214(e)(1) (of Title 47, U. S. Code) requires an ETC to serve throughout its service territory. Inland argues that three wireless carriers, Sprint PCS, Cingular, and United States Cellular Corporation, have been designated to serve the Roslyn exchange<sup>17</sup> and can fill any needs of Suncadia customers. Staff and Public Counsel assert that wireless service is not the equivalent of wireline service, and argue that the FCC has acknowledged as much. They point to difficulties with wireless provision of enhanced 911 service, as an example.

39 We find, as did the initial order, that ETC provision of wireless service is not the equivalent of incumbent wireline service.

40 **iii. *Uncertainty of ETC designees' responsibilities and eligibility for USF funding.*** Inland claims that 47 U.S.C. § 214(e)(4) contemplates that an “underlying ILEC may withdraw from ETC obligations for a physical portion of its service area” and that a state commission has the authority to ensure that all customers served by the withdrawing incumbent will continue to be served. Inland cites no foundation for its contention and we find none. Section 214(e)(4) doesn't appear to address an incumbent's withdrawal, nor the consequences of removing territory from the original service area used to create ETC designations.<sup>18</sup>

41 Commission Staff and Public Counsel also argue that if Inland is not the incumbent within Suncadia's boundaries, the level of USF funding for ETCs is in doubt. The boundaries of an incumbent's exchange at the time of an ETC's designation become

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<sup>17</sup> See, *In re Sprint Corporation Petition for Designation as an ETC*, Docket No. UT-043120 (January 27, 2005); *In re AT&T Petition for Designation as an ETC*, Docket No. UT-043011 (May 2, 2005); and *In re U.S. Cellular Petition for Designation as an ETC*, Docket No. UT-970345 (January 27, 2001).

<sup>18</sup> Section 214(e)(4) reads in part: “A state commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the state commission...shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served.”

the ETC's service area. It is unclear what happens to the ETC's service areas if the incumbent's boundaries change.

42 In addition, they argue, USF funding for ETCs is based on the costs of the incumbent. If there is no incumbent for the Suncadia territory, the level and even existence of funding for ETCs operating in the territory may be in doubt. They point out that in a recent instance, setting the level of USF funding after designating a new incumbent for vacated territory took at least three years.<sup>19</sup>

43 We find that the status of ETCs serving Suncadia's territory and the availability to those ETCs of federal universal support would be uncertain if Inland removed Suncadia from its service territory. This uncertainty may create a potentially adverse effect on the availability of service to residents of Suncadia and resort customers.

44 At the very least, we find major uncertainties in the record that Inland has failed to cure with evidence or citations on its own behalf. The parties provided no FCC authority addressing the issue of how the Universal Service Administrative Company (USAC) would calculate ETC high cost support without relying on the embedded costs in the incumbent's service territory. It is possible that ETCs, including wireless carriers who are not parties to this proceeding, could completely lose support or have less support from the high cost fund since there may be no incumbent upon which to calculate support.

45 We find that Inland has failed to support with credible evidence its contentions that its vacation of territory would serve the public interest.

***B. Designation of ICS as a replacement incumbent.***

46 Inland contends that since ICS is the sole carrier able to serve Suncadia, the Commission can direct ICS to provide carrier of last resort service under RCW 80.36.090 as well as other statutory provisions and Commission rules.

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<sup>19</sup> Petition of M&L Enterprises, Inc., d/b/a Skyline Telephone Company for Designation as an Eligible Telecommunications Company, Docket UT-013022.

47 That may be, however, this docket is not sufficiently noticed nor is the record sufficient to make such a decision necessary or proper.

*C. Arbitrage.*

48 Inland argues that deleting Suncadia from its territory would be an advantage to the public, as it would prevent ICS from arbitraging universal service funds. ICS seeks to obtain universal service support for the services it will provide to Suncadia customers. Inland contends that since USF support is calculated based on Inland's cost of service for a sparsely populated rural area, ICS would receive a high level of support for serving the densely populated (and consequently much less expensive to serve) Suncadia resort territory. The result, Inland contends, is ICS' entitlement to funding that far exceeds its costs of providing service and a waste of federal USF monies.

49 Arbitrage is an important issue, and the Commission has indicated concern about the possibility of arbitrage.<sup>20</sup> However, we find several persuasive reasons not to rule on the contention in this docket. First, the administration of federal USF funds is governed by federal law and rules, under the purview of USAC. This record does not demonstrate that Commission action would be appropriate. Second, this is not a proper proceeding in which to address the issue, because it is an ancillary issue with only marginal relevance to Inland's proposal. Finally, there is a surfeit of speculation and a paucity of evidence in support of the contention. Inland has not proved that this issue, alone or in combination with other matters, warrants the action that Inland proposes.

#### IV. CONCLUSION

50 Inland has failed to meet its burden of proof. It has provided no adequate demonstration that removal of the Suncadia area from Inland's service territory would serve the public interest and would be fair, just and reasonable or consistent with the public interest. Inland's proposed tariff revision is rejected.

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<sup>20</sup> No party objected to the taking of official notice in the initial order, at p. 12, footnote 64, of the tapes of the Commission's May 17 and June 6, 2006, open meetings for Commissioner expressions of concern.

**V. FINDINGS OF FACT**

- 51 (1) The Washington Utilities and Transportation Commission has the authority pursuant to statute to regulate the rates, rules, regulations, and practices of public service companies, including telecommunications companies.
- 52 (2) The Washington Utilities and Transportation Commission has the authority pursuant to statute to establish the service territories of telecommunications companies subject to its jurisdiction.
- 53 (3) Inland is a telecommunications company within the jurisdiction of the Washington Utilities and Transportation Commission.
- 54 (4) Suncadia is a private resort development covering approximately 6,000 acres, located within Inland's Roslyn exchange.
- 55 (5) Suncadia has constructed its own telecommunications infrastructure within the resort area and has contracted with ICS to provide telecommunications service to customers within the resort area. It expects that about 2,000 customers in its service territory will eventually require service through about 4,000 lines.
- 56 (6) ICS is a competitive local exchange carrier that has contracted with Suncadia to provide telecommunications service to customers located within the boundaries of the resort, over Suncadia's facilities.
- 57 (7) On April 19, 2005, Inland filed a proposed revision of its tariffs that would remove Suncadia from Inland's service territory.
- 58 (8) ICS has filed a petition with the Commission, designated Docket UT-053041, requesting that it be designated an eligible telecommunications carrier (ETC) for the Roslyn exchange, including Suncadia. The petition has been held pending a final decision in this docket.

- 59 (9) Inland's lack of an easement to construct its own facilities for telecommunications access to properties within Suncadia's boundaries does not prevent it from providing service.
- 60 (10) Inland has not demonstrated that it would probably be unable, if its boundaries were not changed, to secure access on reasonable terms for provision of service to connections within the Suncadia resort's boundaries.
- 61 (11) Inland has not demonstrated that acceptance of its proposed tariff amendment would prevent substantial costs to Inland or its customers.
- 62 (12) Accepting Inland's proposed tariff would remove access from the Suncadia resort territory to tariffed service by a carrier of last resort.
- 63 (13) Wireless carriers do not provide the same quality of service as wireline carriers.
- 64 (14) Removal of the Suncadia territory from Inland's service area could adversely affect the territories, and eligibility for full or partial universal service funding (USF), of designated eligible telecommunications carriers (ETCs). That eventuality could jeopardize the availability of services to customers within the Suncadia resort boundaries.
- 65 (15) The evidence in this proceeding is not sufficient to support consideration of ICS as a replacement incumbent carrier within the Suncadia resort boundaries.

## **VI. CONCLUSIONS OF LAW**

- 66 (1) The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of, and the parties to, this proceeding and the parties.
- 67 (2) Inland bears the burden of proof to show that the proposed tariff revision would serve the public interest, and would be fair, just, and reasonable.

- 68 (3) Inland provided insufficient evidence to meet its burden of proof in support of its proposed tariff.
- 69 (4) This proceeding is not an appropriate vehicle to consider ICS as a replacement incumbent carrier within the Suncadia resort boundaries.
- 70 (5) Inland's proposed tariff revision to remove Suncadia from Inland's service territory should be rejected.

## VII. ORDER

71 IT IS ORDERED That Inland's proposed tariff revision is rejected.

Dated at Olympia, Washington, and effective November 29, 2006.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

**NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.**

**GLOSSARY**

<b>TERM</b>	<b>DESCRIPTION</b>
CLEC	Competitive local exchange company. Not an ILEC, and generally subject to very limited regulation.
ETC	Eligible telecommunications carrier.
ILEC	Incumbent local exchange company; a company in operation at the time the Act was enacted (August 1996).
USAC	Universal service administrative company
USF	Universal support funds.