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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON**

INLAND TELEPHONE COMPANY,
a Washington corporation,

Petitioner,

NO. _____

PETITION FOR REVIEW

v.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Respondent.

COMES NOW THE PETITIONER, Inland Telephone Company ("Inland"), and petitions for an order vacating and declaring invalid, and restraining the enforcement of, the Final Order Affirming Initial Order; Rejecting Tariff Revision in Docket No. UT-050606, Order No. 09 ("WUTC Order") issued by the Washington Utilities and Transportation Commission (the "Commission" or "WUTC").

On April 19, 2005, Inland filed the tariff that sought to remove an area in Inland's Roslyn exchange consisting of a development known as the Suncadia Resort from Inland's tariffed service territory. On June 29, 2005, the Commission suspended the proposed tariff revision and directed

1 that it be set for hearing. A hearing was held on April 27 and 28, 2006. An administrative law
2 judge entered an Initial Order on August 3, 2006. The Commission issued its WUTC Order
3 rejecting the tariff revision on November 30, 2006. This Petition is brought pursuant to RCW
4 34.05.570(3) and RCW 34.05.514.

5 Pursuant to RCW 34.05.546, Petitioner states as follows:

6
7 1. The names and mailing addresses of the Petitioner:

8 Inland Telephone Company
9 103 South Second Street, PO Box 171
Roslyn, WA 98941

10 2. The name and mailing address of the Petitioner's attorney:

11 Richard A. Finnigan
12 The Law Office of Richard A. Finnigan
13 2112 Black Lake Blvd. SW
Olympia, WA 98512

14 3. The name and mailing address of the agency whose action is at issue:

15 Washington Utilities and Transportation Commission
16 1300 S. Evergreen Park Drive SW
P. O. Box 47250
17 Olympia, WA 98504-7250

18 4. Identification of the agency action at issue, together with a duplicate copy, summary or brief
19 description of the agency action:

20 The agency action at issue is the Commission's Final Order Affirming Initial Order;
21 Rejecting Tariff Revision in Docket No. UT-050606 ("WUTC Order"). See, Appendix A.
22 Appendix A contains both the WUTC Order and the Initial Order which is by necessity
23 incorporated into the WUTC Order and, hence, part of the agency action for which review is sought.
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1 5. Identification of persons who were parties to any adjudicative proceedings that led to the
2 agency action:

3 Suncadia, LLC
4 Registered Agent: Corporation Service Co.
5 6500 Harbour Heights Pkwy #400
6 Mukilteo, WA 98275

Intelligent Community Services, Inc.
Registered Agent: John A. McGary
3513 NE 45th St #2W
Seattle, WA 98105

7 Commission Staff
8 Jennifer Cameron-Rulkowski
9 Assistant Attorney General
10 1400 S. Evergreen Park Drive SW
11 PO Box 40128
12 Olympia, WA 98504-0128

Public Counsel Section
Office of the Attorney General
By Judy Krebs
Assistant Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104-3188

13 6. Facts that demonstrate that the Petitioner is entitled to judicial review:

- 14 A. Inland is an incumbent local exchange company that carries with it the statutory
15 burden of a carrier of last resort to serve all areas that are within its tariffed service
16 area.
17 B. The Suncadia Resort is a privately-owned, master planned resort community that
18 upon final build out will include approximately 2,800 residences, 3 golf courses and
19 a commercial component. All roads within the Suncadia Resort are privately owned.
20 Inland attempted to negotiate an access easement and was denied that easement with
21 the Suncadia Resort. The result is that Inland does not have access to the Suncadia
22 Resort area to serve customers that may request service. Thus, Inland cannot provide
23 service to customers that request such service. Further, Inland cannot fulfill its
24 carrier of last resort obligations in the Suncadia Resort area.

1 C. The owners of the Suncadia Resort, Suncadia, LLC, have entered into an agreement
2 with Intelligent Community Services (“ICS”) which grants ICS, which is a
3 competitive local exchange carrier or CLEC, access to the telecommunications
4 infrastructure constructed by Suncadia, LLC to serve the Suncadia Resort. Such
5 access is provided through an agreement which is in the record in this matter, but is a
6 confidential document, and can be characterized as a “controlling” form of access to
7 the telecommunications infrastructure.
8

9 D. The WUTC Order places Inland in the position of having an obligation to serve a
10 geographic area that not only can it not serve, but has been physically barred from
11 serving by the actions of the resort owner.

12 7. The Petitioner’s reasons for believing that relief should be granted:

13 In addition to the reasons set out above, relief should be granted because:

- 14 A. The WUTC Order is in violation of constitutional provisions by requiring Inland to
15 serve an area it cannot physically serve.
16
17 B. The WUTC Order is outside of the statutory authority or jurisdiction of the WUTC.
18
19 C. The WUTC has erroneously interpreted or applied the applicable law for
20 modification of tariffs to remove service areas, in particular, service areas that the
21 telecommunication company cannot physically serve.
22
23 D. The WUTC Order is not supported by evidence that is substantial when viewed in
24 light of the whole record before the Court, which includes the agency record for
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1 judicial review in that there is insufficient evidence to support the Commission's
2 findings in the WUTC Order.

3 E. The WUTC Order is inconsistent with the rule of the WUTC covering line
4 extensions, WAC 480-120-061, and the requirements that a telecommunications
5 company must meet when a request for service is made by a prospective customer
6 seeking service within the company's defined and tariffed service area.

7
8 F. The WUTC Order is arbitrary or capricious.

9 8. Other matters in support of this claim:

10 A. This Court has jurisdiction over the parties and the subject matter of this proceeding
11 pursuant to RCW 34.05.514 and RCW 34.05.574. Pursuant to RCW 34.05.514
12 (1)(b), venue is proper in Thurston County.

13 B. The WUTC Order is "agency action," as defined in RCW 34.05.010(3).

14 C. Pursuant to RCW 34.05.570(3), Inland may obtain review of an agency action that is
15 an agency order in an adjudicative proceeding. The WUTC Order meets this
16 requirement.

17 9. Request for relief:

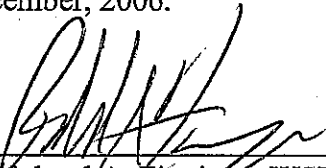
18 Pursuant to RCW 34.05.574, Inland requests that the Court:

19 A. Enter an order reversing the Commission and directing the Commission to enter an
20 order approving the tariff revision filed by Inland to remove the Suncadia Resort area
21 from Inland's tariffed service area.

22 B. Find the action of the Commission to be arbitrary and capricious and reverse the
23 Commission action;

- 1 C. Enter an order declaring the rights and responsibilities of Inland under law to be able
2 to remove an area Inland cannot physically serve from Inland's tariffed service area;
3 D. Enter an order granting such further relief under RCW 34.05.574 as appropriate;
4 E. Enter a stay pursuant to RCW 34.05.550 pending a final decision;
5 F. Enter an order awarding Inland its costs and attorneys fees; and
6 G. Enter an order granting such other relief as may be fair and equitable.
7

8 Respectfully submitted this 26th day of December, 2006.
9

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11 _____
12 Richard A. Finnigan, WSBA# 6443
13 Attorney for Inland Telephone Company

13 Richard A. Finnigan
14 2112 Black Lake Blvd SW
15 Olympia, WA 98512
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17 Facsimile: (360) 753-6862
18 E-mail: rickfinn@localaccess.com
19 WSBA No. 6443

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26 Attorney for Inland Telephone Company