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Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, S.W.
Washington, DC 20554

Re: CC Docket No. 02-6: Petition for Reconsideration of Sunesys, LLC
Notice of Ex Parte Communication

Dear Ms. Dortch,

On September 28, 2017, Mark Eyer, Senior Attorney of Crown Castle USA Inc. ("Crown Castle") and Nicole Jackson, Senior Customer Relations Manager of Crown Castle, doing work for Sunesys, LLC ("Sunesys") (an indirect subsidiary of Crown Castle International Corp. ("CCIC")) and Monica Gambino, Vice President of Legal of Crown Castle, along with Patricia Cave and the undersigned of Morgan Lewis, met with staff of the Wireline Competition Bureau's Telecommunications Access Policy Division, including Ryan Palmer, Liz Drogula, James Bachtell, Kate Dumouchel, and Adrian Wright to discuss Sunesys' pending Petition for Reconsideration (the "Petition") of the Bureau's streamlined denial of a request for waiver of the E-rate invoice filing deadline.¹

Sunesys explained the circumstances leading up to and following the invoice filing deadline for Wide Area Network ("WAN") services provided by Sunesys to Montebello Unified School District ("Montebello") in Funding Year 2015. Sunesys commenced providing Funding Year 2015 services to Montebello in July of 2015. CCIC completed its acquisition of Sunesys during the summer of 2015. After substantial delays in issuing Funding Commitment Decision Letters ("FCDLs") for FY 2015, USAC finally issued an FCDL for Montebello on June 3, 2016, less than one month before the close of FY 2015. Sunesys explained that on June 30, 2016, Sunesys customer billing data was "pulled" into CCIC's billing system, known as JDE, as part of the one-time integration resulting from CCIC's acquisition of Sunesys in 2015.

¹ See Sunesys Petition for Reconsideration, CC Docket No. 02-6 (filed Jul. 31, 2017).

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Because Sunesys had not yet received a Form 486 Notification Letter from USAC regarding FY 2015, Montebello had not been billed and its account was classified within the Sunesys billing system as a “deferred account.” Because Montebello’s account was classified as “deferred” its records were inadvertently not transferred into JDE during the final data pull that occurred on June 30, 2016. Sunesys explained that Montebello was unable to submit its FCC Form 486 until after receipt of the FCDL, pursuant to USAC procedure.² Sunesys received a Form 486 Notification Letter dated October 13, 2016. Montebello requested an automatic one-time extension of the invoice filing deadline, which extended the deadline to June 10, 2017.

Sunesys detailed its efforts to “clean up” customer data and the complications associated with manually inputting Montebello customer information into JDE, including coordinating among multiple departments and securing managerial approvals for manual data entry. Due to these complications, Sunesys was unable to complete the invoicing process prior to June 10, 2017. Sunesys promptly submitted a request for waiver of the invoice filing deadline on June 14, 2017, just three business days after the deadline. Sunesys completed the process of moving Montebello’s deferred account into JDE, issued a bill to Montebello for its share of payment for services rendered in FY 2015, and is ready to submit its Form 474 to USAC for payment.

Extraordinary circumstances present in this case justify a waiver of the invoice filing deadline, and the Bureau should expeditiously grant Sunesys 30 days to file its Form 474 with USAC. Unlike prior denials of requests for waiver of the E-rate invoice filing deadline in which petitioners failed to seek a waiver until several months after the deadline,³ Sunesys filed its waiver request only three business days after the deadline had lapsed, while efforts to reconcile Sunesys’ legacy and live customer billing data were ongoing. Accordingly, this case is similar to the *Jefferson-Madison Order* in which White Lake School District’s “rapid attempt . . . to seek a waiver” was a factor in a finding of extraordinary circumstances.⁴

Unlike prior petitioners who offered only reasons of employee confusion, lack of understanding of the E-rate rules, staff turnover, or family/personal health issues,⁵ unique complications arose during the CCIC acquisition of Sunesys and one-time integration of Sunesys customer billing data into JDE that were exacerbated by unreasonable delays in the issuance of FCDLs for FY 2015. Sunesys explained that had USAC issued the FCDL earlier in FY 2015, Sunesys likely would have been

² See Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation and Children’s Internet Protection Act and Technology Plan Certification Form (FCC Form 486), OMB 3060-0853 (December 2016) at 4 (stating that billed entities may file its Form 486 “no earlier than the receipt of an FCDL from USAC”) (emphasis added); see also *Federal-State Joint Board on Universal Service, Children’s Internet Protection Act*, CC Docket No. 96-45, Order, 17 FCC Rcd. 12443, 12445, ¶ 5 (2002).

³ *Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 31 FCC Rcd. 3834, ¶ 1 (WCB 2016) (“2016 Ada Order”).

⁴ See *Request for Review of the Decisions of the Universal Service Administrator by Jefferson-Madison Regional Library et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order on Reconsideration, 32 FCC Rcd. 4626, 4631, ¶ 13 (WCB 2017).

⁵ See 2016 Ada Order at 3836, ¶¶ 8-9.

able to submit invoices to Montebello and USAC using Sunesys' legacy billing system prior to June 30, 2016. The Bureau has found extraordinary circumstances exist where USAC did not conduct its business in a timely manner, including when it waived the invoice filing deadline for E-rate applicants as a result of USAC's failure to timely approve extension requests.⁶ Additionally, the Bureau granted *sua sponte* waiver of the invoice filing deadline in the Healthcare Connect Fund context when USAC failed to issue funding commitments with adequate time for applicants and service providers to finish their invoicing processes before the deadline.⁷ Because Sunesys' inability to comply with the invoice filing deadline arose out of the confluence of substantial and unreasonable delays in the issuance of FCDLs for FY 2015 and a one-time system integration between newly affiliated entities, the Bureau should find extraordinary circumstances exist which justify a one-time waiver of the invoice filing deadline.

Finally, Sunesys stated that granting the requested relief would not undermine the policy objective of enforcing the invoice filing deadline rule because Sunesys' inability to comply resulted from a one-time system integration and slow issuance of FCDLs in FY 2015.

The facts presented by Sunesys are distinguishable from prior denials of requests to waive the E-rate invoice filing deadline and amount to extraordinary circumstances justifying a waiver. Accordingly, Sunesys requests that the Bureau reconsider its streamlined denial and grant Sunesys 30 days to submit its Form 474 for services provided to Montebello in FY 2015.

Respectfully Submitted,

/s/ Tamar E. Finn

Tamar E. Finn
Counsel for Sunesys, LLC

cc (via email): Ryan Palmer
Liz Drogula
James Bachtell
Kate Dumouchel
Adrian Wright

⁶ See *Requests for Waiver of Decisions of the Universal Service Administrator by Ada School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 32 FCC Rcd. 1909, 1911, ¶ 7 (WCB 2017).

⁷ See *In the Matter of Rural Health Care Support Mechanism*, WC Docket No. 02-60, Order, 32 FCC Rcd. 5065, 5066, ¶ 4 (WCB 2017).