

# Morgan Lewis

**Tamar E. Finn**

**Patricia Cave**

tamar.finn@morganlewis.com

patricia.cave@morganlewis.com

***REDACTED - FOR PUBLIC INSPECTION***

November 8, 2019

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**RE: WC Docket No. 02-6**

**Request for Confidential Treatment of Information Filed with Hunt  
Telecommunications, LLC Written *Ex Parte* Communication**

Dear Ms. Dortch:

Hunt Telecommunications, LLC ("Hunt Telecom") submits via ECFS a redacted version of a written ex parte communications ("Ex Parte") and accompanying Attachments. A confidential version of the Ex Parte has been filed with the Secretary's office with a request seeking confidential treatment of Attachment A (Response to May 2018 Invoice Questions).

Please do not hesitate to contact us with any questions.

Respectfully submitted,



*/s/ Tamar E. Finn*

Tamar E. Finn  
Patricia Cave

*Counsel for Uniti Fiber and Hunt Telecommunications, LLC*

**Morgan, Lewis & Bockius LLP**

1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
United States

 +1.202.739.3000  
 +1.202.739.3001

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Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**RE: WC Docket No. 02-6**

**Request for Confidential Treatment of Information Filed with Hunt  
Telecommunications, LLC Written *Ex Parte* Communication**

Dear Ms. Dortch:

Hunt Telecommunications, LLC ("Hunt Telecom"), through the undersigned and pursuant to 5 U.S.C. § 552 and 47 C.F.R. §§ 0.457, 0.459, requests that the attached unredacted version of Hunt Telecom's written ex parte communication ("Ex Parte") and accompanying Attachments, which is being filed with the Secretary in paper format by hand, be treated as confidential and not subject to public inspection. A redacted version of the Ex Parte and Attachment A have been filed via ECFS. As described below, Hunt Telecom's request satisfies the standards for grant as set forth in Sections 0.457 and 0.459 of the Commission's Rules.

In accordance with 47 C.F.R. § 0.459(b) and in support of its request, Hunt Telecom provides the following information:

**(1) Identification of Confidential Materials:**

Hunt Telecom seeks confidential treatment of the Response to May 2018 Invoice Questions in Attachment A.

**(2) Circumstances Giving Rise to Submission of Information:**

Hunt Telecom is submitting the attached Ex Parte and Attachments regarding its Request for Expedited Waiver filed in WC Docket No. 02-6 on August 5, 2019.

**Morgan, Lewis & Bockius LLP**

1111 Pennsylvania Ave. NW  
Washington, DC 20004  
United States

**T** +1.202.739.3000  
**F** +1.202.739.3001

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Request for Expedited Waiver filed in WC Docket No. 02-6 on August 5, 2019.

(3) Degree to Which Information is Commercial or Financial:

The information in Attachment A contains confidential and proprietary financial and business information that is not routinely available for public inspection and is not made publicly available in the ordinary course of business. This information therefore qualifies for protection pursuant to Commission rule and the Administrative Procedure Act. See 47 C.F.R. § 0.457(d), which references 5 U.S.C. § 552(b)(4).

(4) Degree to Which the Information Concerns a Service Subject to Competition:

Attachment A includes sensitive information regarding Hunt Telecom's revenues from its provision of interstate telecommunications services under the E-rate program.

(5) How Disclosure Could Result in Substantial Harm:

Disclosure of the confidential information contained in Attachment A would cause substantial harm to Hunt Telecom's competitive position.

(6) Measures Taken to Prevent Disclosure:

Attachment A contain sensitive financial and business information that would not otherwise be released to third parties.

(7) Public Access to Information, Third Party Disclosure:

Hunt Telecom has not made this information publicly available through any previous disclosures.

(8) Justification of the Period During Which the Material Should Not be Publicly Available:

Hunt Telecom requests that the Commission hold this information out of public view for an indefinite period of time. Release of this information may cause substantial harm to Hunt Telecom for the reasons set forth herein.

(9) Additional Information:

Due to the competitively sensitive nature of the information contained in Attachment A, Hunt Telecom respectfully requests that the Commission treat the unredacted Ex Parte and Attachment A as confidential and withhold the same from public inspection.

Please contact the undersigned should you have any questions concerning the attached Request or Hunt Telecom's request for confidentiality pursuant to the Commission's rules.

Respectfully submitted,

/s/ Tamar E. Finn

Tamar E. Finn  
Patricia Cave

*Counsel for Uniti Fiber and Hunt Telecommunications, LLC*

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November 8, 2019

**Via Hand Delivery**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Room TW-A325  
Washington, DC 20554

**Re: Written Ex Parte Communication  
WC Docket No. 02-6: Request for Expedited Waiver by Hunt  
Telecommunications, LLC**

Dear Ms. Dortch:

Uniti Fiber, on behalf of its affiliate Hunt Telecommunications, LLC ("Hunt Telecom"), submits this letter in response to questions raised by staff of the Wireline Competition Bureau ("Staff") during an October 22, 2019 meeting to discuss the Waiver Request filed by Hunt Telecom on August 5, 2019 (the "Request").<sup>1</sup> This letter supplements Hunt Telecom's Request with additional information regarding the timeline of events.

First, Staff asked what type of questions Hunt Telecom received from the Universal Service Administrative Company ("USAC") regarding the May 2018 Invoice seeking reimbursement for the Dark Fiber IRU delivered to the Caddo Parish School District ("Caddo") in Funding Year 2016. The Invoice Questions about the May 2018 Invoice were the standard questions Uniti Fiber and its affiliates receive and Hunt Telecom provided a timely response. A copy of the Invoice Questions and Hunt Telecom's response is provided as **Confidential Attachment A**.

Second, Staff requested additional information regarding the time period between Caddo's submission of its Form 471 on May 21, 2016, the issuance of the Funding Commitment Decision Letter ("FCDL") on March 2, 2017, and issuance of a revised FCDL on March 24, 2018. Following Caddo's filing of the Form 471, Hunt Telecom understands that USAC engaged in a Program Integrity Assurance ("PIA") review process which involved substantial back and forth between a consultant engaged by Caddo and USAC. Hunt Telecom provided support to Caddo's consultant by answering various questions raised during that PIA review, but was not directly involved in the process. Uniti Fiber understands that USAC's review of funding requests for large non-recurring charges and issuance of FCDLs was delayed during Funding Year 2016 and the timeline of USAC's

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<sup>1</sup> Unless defined herein, capitalized terms refer to the terms used in Hunt Telecom's Request.

**Morgan, Lewis & Bockius LLP**

1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
United States

+1.202.739.3000  
+1.202.739.3001

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consideration of the Caddo Dark Fiber IRU, and delayed issuance of the FCDL, was consistent with that of other applicants.

Third, Staff asked how Hunt Telecom received the FCDLs associated with the Caddo dark fiber. Hunt Telecom received spreadsheets from USAC via the E-rate Productivity Center ("EPC") after receiving notification of the FCDLs via email. Each FCDL received contained no indication that USAC would reimburse anything less than the full amount of USAC's portion of the non-recurring charges due for the Caddo dark fiber (*i.e.*, the commitment amount remained the same).

Finally, Staff requested additional information regarding the events that took place between USAC's partial disbursement of support on September 5, 2018 ("September Disbursement") and filing of the Request on August 5, 2019. As described in the Request, USAC authorized disbursement for just 25% of its portion of the May 2018 Invoice because the invoiced amount was "not supported by bill(s)." At the time of the September Disbursement, Hunt Telecom believed that USAC paid only 25% of its portion of the cost of delivering the dark fiber because Caddo was paying its portion through installment payments over four years. Adding to the confusion was Hunt Telecom's understanding that Caddo (through its consultant and after consultation with USAC) had filed a Form 471 for E-rate support for the dark fiber in Funding Year 2017 and would do the same for subsequent Funding Years.

Uniti Fiber performed a reconciliation of all outstanding FRNs for the Uniti Fiber affiliates in February 2019, including 323 FRNs across 5 different SPINs. Uniti Fiber was primarily focused on FRNs for Funding Years 2017 and 2018 that had upcoming February 28, 2019 deadlines, however this review also included FRNs for Funding Year 2016 that were available for USAC invoicing. At that time, Hunt Telecom noted that FRN No. 1699144613 had funds remaining to be paid. Hunt Telecom investigated further and contacted outside counsel in March 2019 to review the facts and clarify whether USAC should have paid 100% of the May 2018 invoice under applicable E-rate rules. Working with outside counsel, Hunt Telecom clarified the facts and timeline leading up to and following USAC's partial payment, reviewed Caddo's contract and discussions with USAC, and followed up with Caddo to obtain additional information to prepare the Request.

During this same time period, Uniti Fiber received a substantial number of invoice audit requests from USAC. Specifically, between November 2018 and June 2019, Uniti Fiber received 77 unique invoice audit requests from USAC. These requests required preparation of approximately 120 support files covering numerous SPINs, invoice line items, billing periods, and E-rate applicants. At the same time, USAC was transitioning its audit vendor from Solix to Maximus which resulted in substantial burdens on Uniti Fiber's E-rate team. For example, Uniti Fiber received numerous audit requests that were incomplete, missing source files, sent to incorrect persons that were not listed on Form 498 or in the E-File system, and in some cases no longer worked at the company. Much of these audit request required substantial back-and-forth communication between the auditor and Uniti Fiber before Uniti could even begin processing the requests. This period of time was nothing short of chaotic for the Uniti Fiber employees tasked with managing E-Rate invoicing issues.

Once Uniti Fiber became aware of the discrepancies related to Caddo's funding, the company undertook substantial investigation and legal research. This was the first E-rate contract like this undertaken by the company, and it needed time to investigate the relevant rules and requirements associated with funding requests of this type. Once the company concluded that diligence and determined that USAC had in fact underpaid (and that it was not due to a misunderstanding of the applicable rules), the company took action to remedy the situation. The company's counsel spoke

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to Staff via telephone in advance of filing the Request. Staff requested that Hunt Telecom contact USAC to seek further clarification of the reason for the partial payment in the September Disbursement prior to filing the Request. Hunt Telecom contacted USAC within one day of counsel's call with Staff, and USAC responded that Hunt Telecom must file the Request with the Commission. Once Uniti Fiber discovered the issue related to Caddo's funding, it took the necessary steps to ensure that it was not misinterpreting the rules and was not wasting Staff's time and resources by filing an unsupportable appeal. Uniti Fiber's diligence led it to one conclusion: USAC's funding decision was substantively erroneous, not supportable by the applicable rules, and should be overturned.

The Bureau has waived the appeal filing deadline where appeals were submitted to the Commission (1) within a reasonable period of time after receiving actual notice of USAC's adverse decision, OR (2) when the late-filed appeal would never have been necessary but-for an error by USAC.<sup>2</sup> Therefore, USAC's substantive error justifies granting the Request despite the delay in filing the Request. Even if the "reasonable period of time" standard applied, the delay in appealing USAC's erroneous September Disbursement was reasonable in light of the circumstances described above and in the Request.

An update to the timeline of events previously provided to Staff and filed in the docket that includes the events described above is provided as **Attachment B**.

Please do not hesitate to contact the undersigned if you have any questions.

Sincerely,

*/s/ Tamar E. Finn*

Tamar E. Finn  
Patricia Cave

*Counsel to Uniti Fiber and Hunt  
Telecommunications, LLC*

cc: D'wana Terry, Associate Bureau Chief, Wireline Competition Bureau  
Ryan Palmer, Division Chief, TAPD, Wireline Competition Bureau  
Gabriela Gross, Deputy Division Chief, TAPD, Wireline Competition Bureau  
Bryan Boyle, Assistant Division Chief, TAPD, Wireline Competition Bureau  
James Bachtell, Assistant Division Chief, TAPD, Wireline Competition Bureau  
Stephanie Minnock, Attorney Advisor, TAPD, Wireline Competition Bureau  
Hayley Steffen, Attorney Advisor, TAPD, Wireline Competition Bureau

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<sup>2</sup> See *Requests for Review and/or Waiver of Decisions of the Universal Service Administrator by Animas Sch. Dist. 6 Animas, New Mexico, et al.*, 26 FCC Rcd 16903, 16905, ¶ 4 (WCB 2011).

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**Attachment A**

**Response to May 2018 Invoice Questions**

**[REDACTED IN ITS ENTIRETY]**

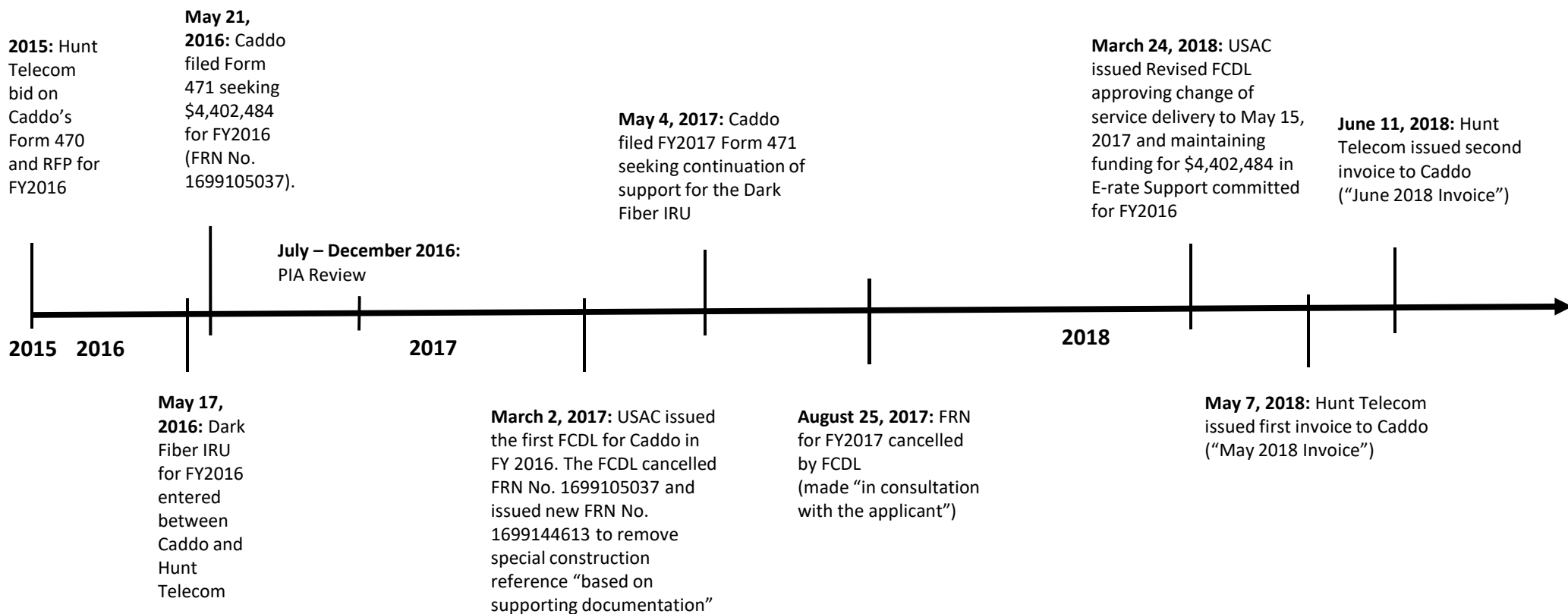
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**Attachment B**

**REVISED Timeline of Events:  
Hunt Telecommunications, LLC's Request for Expedited Waiver**



## Timeline of Events: Hunt Telecommunications, LLC's Request for Expedited Waiver



## Timeline of Events: Hunt Telecommunications, LLC's Request for Expedited Waiver

