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| PUC logo | COMMONWEALTH OF PENNSYLVANIA  PENNSYLVANIA PUBLIC UTILITY COMMISSION  P.O. BOX 3265, HARRISBURG, PA 17105-3265 | **IN REPLY PLEASE REFER TO OUR FILE** |

February 25, 2015

A-2015-2464082

A-2015‑2464030

Daniel P. Delaney, Esq.

K&L Gates LLP

17 North Second Street, 18th Floor

Harrisburg, PA 17101-1507

Re: Joint Application of Access Fiber Solutions, Inc., and Sunesys, LLC for approval to participate in an Asset Transfer Transaction whereby Sunesys LLC will acquire certain assets of Access Fiber Solutions, Inc.

Dear Mr. Delaney:

On January 21, 2015, Access Fiber Solutions, Inc. (AFS) and Sunesys, LLC (Sunesys) (collectively, “Joint Applicants”), filed a joint application as a General Rule Transaction pursuant to Chapter 11 of the Pennsylvania Public Utility Code at 66 Pa. C.S. §§ 1102(a)(3) and Commission regulations at 52 Pa. Code §§ 63.324, seeking approval to consummate a transaction whereby Sunesys will acquire certain assets of AFS (the “Transaction”).

Pursuant to 52 Pa. Code § 5.14, relating to applications requiring notice, a notice of the application for asset transfer was published on February 7, 2015, in Volume 45 of the Pennsylvania Bulletin (45 Pa.B. 737), with a protest period ending February 23, 2015. Additionally, copies of the application were served upon the Bureau of Investigation and Enforcement, Office of Small Business Advocate and the Office of Consumer Advocate. No protests or comments have been received.

AFS, a Pennsylvania corporation with principal offices located at 114 North Second Street, Harrisburg, Pennsylvania 17101, specializes in providing voice, video, and data convergence for high-speed broadband applications. In Pennsylvania, AFS is authorized to provide telecommunications services as a Competitive Access Provider (CAP) on a statewide basis pursuant to a Certificate of Public Convenience issued by the Commission under Docket No. A-311206.

Sunesys, a Delaware limited liability company with principal offices located at 185 Titus Avenue, Warrington, Pennsylvania 18976, is a wholly-owned subsidiary of InfraSource Incorporated, who in turn is a subsidiary of Quanta Services, Inc. Sunesys currently provides dedicated point-to-point telecommunications transmission services to commercial, governmental, and non-profit customers. Sunesys does not provide service to any residential customers. In Pennsylvania, Sunesys is authorized to provide telecommunications services as a CAP on a statewide basis pursuant to a Certificate of Public Convenience issued by the Commission under Docket No. A-311427.

On January 16, 2015, the Joint Applicants entered into an Asset Purchase Agreement (Agreement) by which Sunesys will acquire all of AFS’s Waynesboro fiber assets used in the provision of CAP-related services in Franklin County, Pennsylvania, including but not limited to underground and aerial fiber optic networks, machinery, and equipment. AFS will also assign to Sunesys all of its rights-of-way easements, fiber leases, network licenses, and other agreements related to the provision of service to customers with the Waynesboro assets.

Upon acquiring these assets, Sunesys will become the service provider for the only customer served by AFS’s Waynesboro assets – the Waynesboro Area School District (WASD) – and will provide service to WASD under Sunesys’ existing CAP authorization. Sunesys will assume all of AFS’s obligations pursuant to a maintenance and service contract signed between AFS and WASD.

Once the Transaction has been completed and approved, AFS will no longer provide service in Franklin County, Pennsylvania, but AFS will remain in existence and continue to provide service to its remaining customers throughout Pennsylvania. The proposed Transaction does not in any way involve the transfer of AFS’s CAP Certificate or the cancellation of AFS’s Certificate.

The Joint Applicants submit that the Transaction is in the public interest, in that it is structured to assure a seamless transfer of assets that will be transparent to the current customer, WASD. That is, Sunesys will continue to provide high quality telecommunication services with no disruption of service, and WASD will continue to receive service under the same rates, terms and conditions as it does today.

The Joint Applicants aver that they do not have eligible telecommunications carrier status under Federal or State law, that they are not subject to any broadband deployment commitments under Federal or State law, and that the proposed transaction complies with the prohibition against cross-subsidization imposed under Federal and State law.

As required by Section 63.324(k)(1) of our rules, we find that the record sufficiently supports the Joint Applicants’ claim that the proposed transfer of assets, whereby AFS’s Waynesboro assets and associated customer of WASD are being obtained in full by Sunesys, will benefit customers by strengthening the Joint Applicants’ competitive position in Pennsylvania. Furthermore, we conclude that the record provides substantial evidence of affirmative public benefits sufficient to warrant approval of the proposed transaction under *City of York v. Pa. PUC*, 295 A.2d 825 (Pa. 1972) and *Irwin A. Popowsky v. Pa. PUC*, 937 A.2d 1040 (Pa. 2007).

The Commission finds that the transaction is necessary for the service, accommodation, convenience, or safety of the public and the Commission will issue a certificate of public convenience authorizing this transaction as required by 66 Pa. C.S. §§ 1102(a) and 1103 and 52 Pa. Code § 63.324(k)(2).

Finally, based upon the information provided in the joint application, the Commission finds that the transaction does not harm competition. Consequently, the Commission’s approval will enhance the Joint Applicants’ ability to compete in Pennsylvania without harm to consumers or Pennsylvania markets as required by Section 63.324(k)(3) of our rules. 52 Pa. Code § 63.324(k)(3).

The Commission has determined that AFS and Sunesys are current with their annual financial and Security Planning and Readiness Self Certification Form report filing requirements, and there are no outstanding Commission fines or assessments against them.

In summary, we find that the joint application should be approved as a General Rule transaction under Section 63.324 of the Commission’s rules as requested, and that certificates of public convenience be issued to Access Fiber Solutions, Inc. and Sunesys, LLC evidencing our approval of the proposed transfer of assets of Access Fiber Solutions, Inc. to Sunesys, LLC.

Therefore, the Commission directs Access Fiber Solutions, Inc. and Sunesys, LLC to file notice with this Commission within 30 days of the transfer of assets of Access Fiber Solutions, Inc. to Sunesys, LLC. If either Access Fiber Solutions, Inc. or Sunesys, LLC determines that the proposed transaction will not take place, they shall promptly so notify this Commission.



BY THE COMMISSION,

Rosemary Chiavetta

Secretary

cc: David Brinjac, President, Access Fiber Solutions, Inc.

Paul Bradshaw, Senior Counsel, Sunesys, LLC

Maureen O’Dea Brill, Esquire