REDACTED - FOR PUBLIC INSPECTION

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Accepted / Filed

JUN - 9 2017

Federal Communications Commission
Office of the Secretary

DOCKET FILE COPY ORIGINAL

June 9, 2017

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

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

SUPPLEMENT

Request for Review by U.S. TelePacific Corp. d/b/a TPx Communications of Decision of the Universal Service Administrator

Cover Letter for Redacted Version

Dear Ms. Dortch:

U.S. TelePacific Corp. d/b/a TPx Communications ("TPx") submits via ECFS a redacted version of a Supplement to the Request for Review along with their Request for Confidential Treatment. A confidential version of the Supplement has been filed with the Secretary's office with a request seeking confidential treatment of sensitive customer and TPx business information included therein.

Please do not hesitate to contact us with any questions.

Respectfully submitted,

/s/ Tamar E. Finn
Tamar E. Finn
Stephany Fan

Counsel for U.S. TelePacific Corp. d/b/a TPx Communications

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

SUPPLEMENT

Request for Review by U.S. TelePacific Corp. d/b/a TPx Communications of Decision of the Universal Service Administrator

Request For Confidential Treatment

Dear Ms. Dortch:

U.S. TelePacific Corp. d/b/a TPx Communications ("TPx"), 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 TPx's Supplement, 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 Supplement has been filed via ECFS. As described below, TPxs' request satisfies the standards for grant of this request 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, TPx provides the following information:

(1) Identification of Confidential Materials:

TPx seeks confidential treatment of invoice summaries, account payable records, and correspondence regarding federal and state subsidies for supported services TPx provided to Coachella Valley Unified School District ("CVUSD").

(2) Circumstances Giving Rise to Submission of Information:

TPx is submitting the attached Supplement to the pending Request for Review by U.S. TelePacific Corp. of Decision of the Universal Service Administrator regarding the provision of services to CVUSD during Funding Year 2011-2012.

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

The information in the Supplement contains confidential and proprietary commercial and customer 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:

The Supplement includes sensitive information regarding TPx's specific telecommunications services provided to CVUSD and eligibility for federal and state support.

(5) How Disclosure Could Result in Substantial Harm:

Disclosure of the confidential information contained in the Supplement would cause substantial harm to TPx's competitive position.

(6) Measures Taken to Prevent Disclosure:

The Supplement contains sensitive commercial and customer information that would not otherwise be released to third parties.

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

TPx 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:

TPx 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 TPx for the reasons set forth herein.

(9) Additional Information:

Due to the competitively sensitive nature of the information contained in the Supplement, TPx respectfully requests that the Commission treat the unredacted Supplement as confidential and withhold the same from public inspection.

Please contact the undersigned should you have any questions concerning the attached documentation, or TPx's request for confidentiality pursuant to the Commission's rules.

Respectfully submitted,

/s/ Tamar E. Finn
Tamar E. Finn
Stephany Fan

Counsel for U.S. TelePacific Corp. d/b/a TPx Communications

REDACTED – FOR PUBLIC INSPECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Schools and Libraries	)	CC Docket No. 02-6
Universal Service Support Mechanism	)	
	)	

SUPPLEMENT

U.S. TelePacific Corp. d/b/a TPx Communications[1] ("TPx") supplements its Request for Review of a Universal Service Administrative Company ("USAC") Decision regarding the provision of services during Funding Year 2011 to Coachella Valley Unified School District ("CVUSD").[2]

CVUSD Payment through Offsetting Credits

As explained in its Request for Review,[3] USAC's denial of TPx request for payment of certain invoices was based on a misunderstanding of CVUSD's payments to TPx. Specifically, credits from CVUSD payments for Funding Years 2008-2011 were applied during Funding Years 2010 and 2011. This left a substantial credit balance that offset, in part, amounts billed for services TPx provided to CVUSD for Funding Year 2011. CVUSD did not provide TPx copies of the Service Certifications it submitted to USAC to show the date the applicant portion was or would be paid. However, TPx understands that CVUSD may have noted that "no payment was made" for the invoices. TPx believes any such "no payment" reference reflected application of the substantial credit balance to CVUSD's service charges for Funding Year 2011.

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1 Formerly TelePacific Communications and referred to herein as TPx.
2 *See* Request for Review by U.S. TelePacific Corp. of Decision of the Universal Service Administrator, CC Docket No. 02-6 (filed Sept. 3, 2015).
3 *Id.*

This details the amount of the credits and how they were applied. USAC funding commitment decision letters ("FCDLs") were issued on the following dates:

a. Funding Year 2008 on December 15, 2010;

b. Funding Year 2009 on August 4, 2010;

c. Funding Year 2010 on November 9, 2010 and January 27, 2011; and

d. Funding Year 2011 on November 22, 2011.

Because the FCDLs were late each year, TPx invoiced, and CVUSD paid, the total, non-discounted amount for services provided during Funding Years 2008 and 2009, and part of 2010 and 2011. Upon receiving FCDLs for each Funding Year, TPx issued credits to CVUSD[4] for the discounted portion of the paid invoices.[5] This resulted in substantial credit balances that were applied to services provided in future months. For example, the first invoice TPx issued CVUSD for the 2011 Funding Year for FRN 2198838 had a credit balance of **[BEGIN CONFIDENTIAL]** [redacted]. **[END CONFIDENTIAL]** See Exhibit C, July 16, 2011 Invoice. Thus CVUSD "paid" all but approximately **[BEGIN CONFIDENTIAL]** [redacted] **[END**

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[4] TPx issued credits, rather than CVUSD using the Billed Entity Applicant Reimbursement ("BEAR") process, because the services TPx provided to CVUSD also qualified for support from the State of California's Teleconnect Fund and the California Commission requires that TPx invoice USAC, rather than CVUSD, for the discounted amount. See Exhibit A, and Exhibit B.

[5] For example, on CVUSD's September 16, 2010 invoice for billing account number 58472 (FRN 2198838), TPx issued USF credits in the amount of **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** for Funding Year 2009 discounts and **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** for Teleconnect Fund Credit. On CVUSD's January 16, 2011 invoice, TPx issued USF credits in the amount of **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** for Funding Year 2008 discounts and **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** for Teleconnect Fund Credit. On CVUSD's March 16, 2011 invoice, TPx issued USF credits in the amount of **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** for the period July 2010 through February 2010 and **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** for Teleconnect Fund Credit. On CVUSD's December 16, 2011 invoice, TPx issued USF credits in the amount of **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** for the period July 2011 through November 2011 and **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** for Teleconnect Fund Credit.

CONFIDENTIAL] of the July 2011 invoice for FRN 2198838 by application of the credit balance. CVUSD paid the remaining balance by check, as reflected in TPx's accounts payable records. See Exhibit D.

As explained below, USAC rejected TPx invoices submitted under two FRNs, one for voice services and a second for data services. In both cases, CVUSD paid the invoices through a combination of offsetting credit balances or checks. Exhibit D includes a monthly TPx invoice summary for services provided under FRN 2198848[6] and FRN 2198838[7] and accounts payable records that show CVUSD paid each net balance. TPx asks the FCC to direct USAC to accept these records as proof of applicant payment.[8]

USAC Denied Invoices for Voice and Broadband Services that It Had Not Found Were Duplicative

TPx now understands that USAC informed the FCC it also rejected the invoices because USAC issued a Commitment Adjustment for ten sites where duplicative broadband services were provided for a period of time to CVUSD by TPx and Time Warner Cable. The issue of duplicative services cannot justify USAC's decision to reject all of TPx's invoices because: (1) USAC rejected invoices for voice services provided under a FRN not subject to a Commitment Adjustment; and (2) USAC rejected invoices for broadband services at three sites during the period July 2011 through November 2011, but later paid invoices for those same three sites during the period December 2011 through June 2012. USAC could not have relied on the Commitment Adjustment when it rejected TPx invoices for voice services and the three additional sites.

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6 TPx invoiced CVUSD for voice services under two billing account numbers, 14302 and 18850.
7 TPx invoiced CVUSD for broadband services under billing account number 58472.
8 If requested to do so, TPx can provide copies of each monthly invoice to USAC.

CVUSD was approved for E-Rate funding for Funding Year 2011 under FRN 2198848 and FRN 2198838. For FRN 2198848, TPx submitted invoices to USAC for credits issued for voice-related services, including POTS lines, T1 trunks providing voice service only, ISDN/PRI circuits, call features, DID numbers, toll free service, local/long distance usage, and associated government fees, surcharges, and taxes. Since FRN 2198848 invoices only included voice services and had nothing to do with the duplicative broadband services, the Commission should reverse USAC's decision to reject these invoices, and order USAC to disburse the outstanding funding of $128,935.96 under FRN 2198848.

The Commission also should reverse USAC's decision to deny invoices for the three additional sites under FRN 2198838. TPx submitted invoices to USAC under this FRN for credits issued for MPLS and Point-to-Point services. The Commitment Adjustment states:

[BEGIN CONFIDENTIAL] [redacted] [9] **[END CONFIDENTIAL]**

TPx disconnected 10 sites in September 2011 at the request of CVUSD. Of the total claims that USAC denied for FRN 2198838 in Funding Year 2011, only $16,895.20 was for the 10 disconnected sites. TPx does not dispute the denial of invoices for the 10 sites disconnected in September 2011. However, the remaining FRN 2198838 invoices of $34,288.74 were for three

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[9] Universal Service Administrative Company, Notification of Commitment Adjustment Letter to Coachella Valley Unified School District (April 28, 2014).

additional sites. USAC's subsequent payment of $34,090.56 for these three additional sites during the period Dec. 2011 through June 2012, and after the disconnection of the other 10 sites, is evidence that the three additional sites were not the subject of a Commitment Adjustment. The Commission should reverse USAC's decision to reject the Funding Year 2011 invoices for these three additional sites during the period July 2011 through November 2012, and order USAC to disburse the outstanding funding of $34,090.56 for FRN 2198838. For the Commission's reference, details on the outstanding amounts for FRN 2198848 and FRN 2198838 are included in Exhibit E.

Conclusion

TPx respectfully requests that the Commission reverse USAC's decision to reject invoices for voice services and invoices for the three additional sites that were not the subject of USAC's Commitment Adjustment. As explained in TPx's original appeal, because CVUSD paid for its portion of the eligible services by application of its substantial credit balance to Funding Year 2011 invoices, the Commission should find that CVUSD paid for its portion of the eligible services and direct USAC to pay TPx $128,935.96 under FRN 2198848, and $34,288.74 under FRN 2198838.

Respectfully submitted,

/s/ Tamar E. Finn

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Counsel for U.S. TelePacific Corp. d/b/a TPx Communications

Dated: June 9, 2017

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EXHIBIT A

CAPUC CTF Administrative Letter

STATE OF CALIFORNIA

REDACTED - FOR PUBLIC INSPECTION

ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

June 22, 2006

To: All Telecommunications Carriers Offering Telecommunications Services that are Eligible for California Teleconnect Fund (CTF) Discounts

Re: CTF Administrative Letter No. 14 – BEAR funding process.

Resolution T-16763, dated May 27, 2004, indicates that an assessment of the Billed Entity Applicant Reimbursement (BEAR) process is to be performed on or before July 1, 2006.

Ordering Paragraph (OP) No. 11 of Resolution T-16763, states:

> "Carriers who are currently using the BEAR funding process for the E-rate customers shall be allowed to do so until July 1, 2006."

Ordering Paragraph (OP) No. 12 of Resolution T-16763 states:,

> "On or before July 1, 2006, the TD shall assess the feasibility of allowing the BEAR funding process to continue beyond the July 1, 2006 date."

In D.96-10-066, the Commission established the CTF program to provide discounts to qualifying schools, libraries, community based organizations (CBO), and municipal and county government owned and operated hospitals and health clinics in California subscribing to a family of telecommunications services including Measured Business (1 MB) service, T-1 service, and DS-3, or their functional equivalents. The E-rate program provides discounts to assist most schools and libraries in the United States obtain affordable telecommunications and Internet access. E-rate customers have the option of being funded directly from the SLD via reimbursement for services that have already been paid (BEAR) or having their service provider invoice the SLD for discounts provided to the E-rate customer. In the BEAR funding process, the service provider and the applicant jointly submit the BEAR form, following the applicant's receipt of discounted eligible telecommunications services, after the applicant has fully paid for the services.

Based on its analysis, the Telecommunications Division concludes that as of July 1, 2006 the BEAR form will no longer be used to compute the CTF discount.

Should you have any questions regarding this matter, please contact Carlos Figueroa at (415) 703-1993 or Fe Lazaro at (415) 703-2627.

John M. Leutza

John M. Leutza, Director
Telecommunications Division

EXHIBIT B

E-Mail Correspondence With CAPUC Staff

REDACTED IN ITS ENTIRETY

EXHIBIT C

July 16, 2011 Invoice (Billing Account Number 58472)

REDACTED IN ITS ENTIRETY

EXHIBIT D

Invoice Summaries and Account Payable Records

REDACTED IN ITS ENTIRETY

Billing Account Number 18850
FRN 2198848

REDACTED IN ITS ENTIRETY

Billing Account Number 14302
FRN 2198848

REDACTED IN ITS ENTIRETY

Billing Account Number 58472
FRN 2198838

REDACTED IN ITS ENTIRETY

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EXHIBIT E

Details for FRN 2198848 and 2198838

TelePacific Coachella Valley E-Rate Appeal

TelePacific filed an appeal 63 days after receiving notice of USAC's invoice rejection for the stated reason that "service cert received but invalid."

Coachella Valley USD was approved for E-Rate funding for the 2011 Funding Year under two FRNs:

- FRN 2198848
  - Original Commitment = $160,943.65
- FRN 2198838
  - Original Commitment = $206,681.07
  - Adjusted Commitment = $89,861.56

The appeal includes invoices submitted under both FRNs.

For FRN 2198848, total claims of $153,270.98 were submitted to USAC for credits issued for the following services:

- POTS lines
- T1 trunks providing voice service only
- ISDN/PRI circuits
- Call Features
- DID Numbers
- Toll Free service
- Local/Long Distance usage
- Associated government fees, surcharges, and taxes

Of that total, $24,335.02 was approved and disbursed by USAC and $128,935.96 is outstanding.

For FRN 2198838, 2011 Funding Year total claims of $85,274.52 were submitted to USAC for credits issued for the following services:

- MPLS
- Point-to-Point

Of the total claims, $16,895.20 was for 10 sites disconnected at the request of CVUSD in September 2011. The remaining $68,379.30 was for three additional sites of which $34,090.56 (Dec. 2011-June 2012) was approved and disbursed by USAC and $34,288.74 (July 2011-Nov. 2011) is outstanding.

TelePacific requests that the FCC **waive** the filing deadline, **reverse** USAC's decision for the voice services billed under FRN 2198848 and the three funded sites remaining in FRN 2198838, and **direct USAC to process** those portions of TelePacific's invoice.

Total Amounts Outstanding:
FRN 2198848: $128,935.96
FRN 2198838: $ 34,288.74
Total: $163,224.70

VERIFICATION

I, Ray Hulett, state that I am Senior Revenue Analyst of U.S. TelePacific Corp. d/b/a TPx Communications (the "Company"); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 8TH day of June, 2017.

Ray Hulett
Senior Revenue Analyst
U.S. TelePacific Corp. d/b/a TPx Communications

FCC