

**BINGHAM**

**REDACTED  
FOR PUBLIC INSPECTION**

Tamar E. Finn  
Katie B. Besha  
Phone: 202.373.6000  
Fax: 202.373.6001

**FILED/ACCEPTED**

**MAR 17 2009**

**Federal Communications Commission  
Office of the Secretary**

March 17, 2009

**By Hand**

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

**Re: CTE Telecom, LLC - Supplement to Request for Review of  
Decision of the Universal Service Administrator, WCB Docket  
No. 06-122**

Dear Secretary Dortch:

On behalf of CTE Telecom, LLC ("CTE"), please find attached a redacted, public version and a confidential version, plus four copies of each, of the Supplement to CTE's Request for Review of Decision of the Universal Service Administrator, WCB Docket Nos. 06-122 and 97-21 ("Supplement").

CTE, by its counsel and pursuant to Sections 0.457 and 0.459 of the Commission's Rules, 47 C.F.R. §§ 0.457, 0.459, respectfully requests confidential treatment of certain information provided in its Supplement because this information is competitively sensitive and its disclosure would have a negative competitive impact on CTE were it made publicly available. Accordingly, the attached Supplement has been marked "**CONFIDENTIAL - NOT FOR PUBLIC INSPECTION.**" CTE provides justification for the confidential treatment of this information in Attachment 1 to this letter. CTE is also submitting, under separate cover, for inclusion in the Commission's public files, a redacted version of this Supplement. The redacted version is marked "**REDACTED - FOR PUBLIC INSPECTION,**" with the confidential information redacted.

Please contact the undersigned should you have any questions concerning this Supplement or the request for confidentiality. Please date-stamp the enclosed extra copy of this filing and return it in the self-addressed envelope provided.

Respectfully submitted,



Tamar E. Finn  
Katie B. Besha

Boston  
Hartford  
Hong Kong  
London  
Los Angeles  
New York  
Orange County  
San Francisco  
Santa Monica  
Silicon Valley  
Tokyo  
Walnut Creek  
Washington

Bingham McCutchen LLP  
2020 K Street NW  
Washington, DC  
20006-1806

T 202.373.6000  
F 202.373.6001

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## Attachment 1

### Request for Confidentiality

CTE Telecom, LLC ("CTE"), respectfully requests confidential treatment of certain information provided in its Supplement to Appeal ("Supplement"), In the Matter of Request for Review of Decision of the Universal Service Administrator by CTE Telecom, LLC, WCB Docket No. 06-122, because this information is competitively sensitive and its disclosure would have a negative competitive impact on CTE were it made publicly available. Such information would not ordinarily be made available to the public, and should be afforded confidential treatment under 47 C.F.R. §§0.457 and 0.459.

#### 47 C.F.R. §0.457

Specific information in the Supplement is confidential and proprietary to CTE as "trade secrets and commercial or financial information" under Section 47 C.F.R. §0.457(d). Disclosure of such information to the public would risk revealing company-sensitive proprietary information in connection with CTE's ongoing business and operations.

#### 47 C.F.R. §0.459

Specific information in the Supplement is also subject to protection under 47 C.F.R. §0.459, as demonstrated below.

#### Information for which confidential treatment is sought

CTE requests that specific information in the Supplement be treated on a confidential basis under Exemption 4 of the Freedom of Information Act. The information designated as confidential includes sensitive information regarding CTE's Universal Service Fund and Telecommunications Relay Service Fund contribution amount and payment information. This information is competitively sensitive information that CTE maintains as confidential and is not normally made available to the public. Release of the information would have a substantial negative impact on CTE since it would provide competitors with commercially sensitive information.

#### Commission proceeding in which the information was submitted

The information is being submitted in the Matter of Request for Review of Decision of the Universal Service Administrator by CTE Telecom, LLC, WCB Docket No. 06-122.

#### Degree to which the information in question is commercial or financial, or contains a trade secret or is privileged

The information designated as confidential includes sensitive information regarding CTE's USF contribution amounts. As noted above, the data is competitively sensitive information which is not normally released to the public as such release would have a substantial negative competitive impact on CTE.

#### Degree to which the information concerns a service that is subject to competition and manner in which disclosure of the information could result in substantial harm

The market for broadband internet access service is competitive and thus the release of this confidential and proprietary information would cause CTE competitive harm by allowing its competitors to become

aware of sensitive proprietary information regarding the operation of CTE's business at a level of detail not currently available to the public.

Measures taken by CTE to prevent unauthorized disclosure; and availability of the information to the public and extent of any previous disclosures of the information to third parties

CTE has treated and continues to treat the non-public information disclosed in this Supplement as confidential and has protected it from public disclosure to parties outside of the company.

Justification of the period during which CTE asserts that the material should not be available for public disclosure

CTE cannot determine at this time any date on which this information should not be considered confidential.

Other information CTE believes may be useful in assessing whether its request for confidentiality should be granted

Under applicable Commission decisions, the information in question should be withheld from public disclosure.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Review of Decision of the Universal Service Administrator by	)	WCB Docket Nos. 06-122
	)	
CTE Telecom, LLC	)	

**SUPPLEMENT TO REQUEST FOR REVIEW OF DECISION  
OF THE UNIVERSAL SERVICE ADMINISTRATOR BY  
CTE TELECOM, LLC**

**I. INTRODUCTION**

On June 20, 2008, the Universal Service Administrative Company ("USAC") directed CTE Telecom, LLC ("CTE" or "Company") to revise within 60 days its 2006 Form 499-A consistent with the findings in an Audit Report from USAC's Internal Audit Division, USAC Audit Report for Filer ID: 822888 ("USAC Audit Report"). Throughout USAC's audit process, CTE has maintained that it reported its telecommunications revenues in accordance with the Federal Communications Commission ("FCC" or "Commission") Regulations and the underlying Orders related to the Universal Service Fund ("USF"). On August 18, 2008, CTE filed the above captioned Request for Review, requesting that the Commission reverse certain parts of the USAC Audit Report regarding CTE's alleged incorrect reporting of telecommunications revenues. Specifically, CTE appealed USAC's decision number 1 which adopts the Reznick Group's classification of the Company's broadband Internet access service as a telecommunications service.

CTE submits the following information as a Supplement to its Request for Review.

**II. CTE HAS MADE PAYMENT OF DISPUTED AMOUNTS TO USAC AND REQUESTS SUCH FUNDS TO BE REFUNDED IF THE AUDIT FINDINGS ARE REVERSED**

In an effort to comply with USAC's findings, CTE filed a revised FCC Form 499-A on August 14, 2008. USAC issued invoices to CTE in the fourth quarter of 2008 that billed CTE for additional USF contributions which were calculated based on CTE's revised FCC Form 499-A. CTE has paid USAC's invoices in full. CTE in no way concedes to the findings of the USAC audit but filed its revised FCC Form 499-A and paid disputed amounts in an effort to comply with USAC audit requirements and avoid late payment penalties prior to any FCC decision.

CTE has paid a total of **\*\*\*BEGIN CONFIDENTIAL END CONFIDENTIAL\*\*\*** ("the Disputed Amount") to USAC. Exhibit 1 attached hereto contains the invoices for such payments and the USAC Payment Identification Forms CTE submitted with its wire payments to USAC. Based on CTE's revised FCC Form 499-A, which complies with USAC's findings, this is the total amount CTE allegedly owed USAC. CTE does not have any further outstanding debts to USAC. CTE respectfully requests that the Commission grant CTE's appeal, reverse USAC's audit finding, and refund to CTE the disputed amount.

**III. IF THE COMMISSION REVERSES THE AUDIT FINDINGS, IT SHOULD ALLOW CTE TO REVISE AND REFILE ITS FORM 499-A**

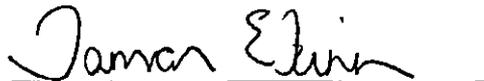
Since filing its revised 499-A, CTE has received an invoice from the National Exchange Carrier Association (NECA) which assesses Telecommunications Relay Service ("TRS") fees based on a carrier's Form 499-A. Exhibit 2 attached hereto contains the NECA invoice and evidence of CTE's payment. CTE filed a revised Form 499-A only to comply with USAC audit requirements and avoid late payment but in no way conceded to the auditor's findings. If the Commission finds the auditor's findings should be reversed, it should allow CTE to revise and

refile its Form 499-A. CTE can then resubmit this form to NECA and any other fund administrator that uses the 499-A to calculate fees and request true-ups of such fees.

**IV. CONCLUSION**

In light of the foregoing, CTE respectfully requests that the Commission reverse USAC's finding number 1 of the USAC Audit Report regarding the classification of CTE's enhanced services offering, require USAC to refund the Disputed Amount paid by CTE, and require USAC to accept and process a revised 499-A consistent with the findings in this appeal.

Respectfully submitted,



Tamar E. Finn  
Katie B. Besha  
Bingham McCutchen LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7500 (Tel)  
(202) 424-7647 (Fax)

Kevin Saville  
Associate General Counsel  
2378 Wilshire Blvd.  
Mound, MN 55364  
Tel: 952-491-5564  
Fax: 952-491-5577

*Counsel for CTE Telecom, LLC*

Date: March 17, 2009

**REDACTED**  
**FOR PUBLIC INSPECTION**

**EXHIBIT 1**

**INVOICES AND PAYMENT IDENTIFICATION FORMS**

**REDACTED  
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**EXHIBIT 2**

**NECA INVOICE AND PAYMENT FORMS**

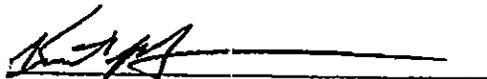
**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Request for Review of Decision of the )  
Universal Service Administrator by )  
 ) WCB Docket No. 06-122  
CTE Telecom, LLC )

**DECLARATION OF KEN MASON**

1. My name is Kenneth Mason. I am Vice President of Government and Regulatory Affairs at CTE Telecom, LLC ("CTE"). My business address is 180 S Clinton Ave., 5th Floor, Rochester, New York 14646.
2. I am an officer of CTE and am authorized to make this declaration on behalf of CTE.
3. I hereby declare that the foregoing Supplement to Appeal was prepared under my direction and supervision and that the contents are true and correct to the best of my knowledge, information and belief.
4. The Universal Service Administrative Company ("USAC") invoices attached as Exhibit 1 to this Supplement include an adjustment for the Company's 2006 contributions that were the subject of USAC's audit.
5. The payment identification forms attached as Exhibit 1 to this Supplement identify the payments made to USAC for the 2006 adjustment.
6. The National Exchange Carrier invoice and payment information attached as Exhibit 2 to this Supplement identify the payments CTE made to NECA for the 2006 adjustment.

I affirm under penalty of perjury that the foregoing is true and correct.



Kenneth Mason