Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

To: The Commission

COMMENTS OF CENTRAL TEXAS TELEPHONE COOPERATIVE, INC.

CENTRAL TEXAS TELEPHONE COOPERATIVE, INC.

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TABLE OF CONTENTS

Summary

Central Texas Telephone Cooperative, Inc. ("Central Texas") is not opposed to reasonable caps as the Federal Communications Commission's ("FCC" or "Commission") transitions to a broadband-based universal service methodology. However, the FCC's regression model, in its current form, leads to erroneous, arbitrary, and confiscatory results when applied to Central Texas. The FCC's regression model does not take into account legitimate cost factors such as loop length and rocky terrain that Central Texas encounters in its provision of high-cost telecommunications service in rural, Central Texas. Further, the regression model's conclusion that Central Texas's capital expenses and operating expenses lack "prudence" is demonstrably false, lacks any rational connection to the facts, and contrary to the Communications Act of 1934, as amended. Absent the proposed changes discussed by Central Texas, the FCC risks having its model stayed in court and either reversed or remanded.

The FCC's regression model is overly-reliant on loop counts as the primary factor used to calculate the capped results. The number of loops, in and of itself, cannot and does not predict loop costs. The FCC's use of loop counts in its AL1 algorithm as the prime driver of its cost calculations leads to erroneous results. Central Texas has equivalent or lower loop counts as other similarly-situated carriers, but experiences higher loop costs and costs per loop due to the nature of its service area and the length of its loops. Basing a carrier's support almost exclusively on the number of loops it serves, while essentially ignoring loop length and other legitimate cost factors in a carrier's service area, leads to arbitrary results. Central Texas will continue to work with the Commission to cure the flaws in its regression model.

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To: The Commission

COMMENTS OF CENTRAL TEXAS TELEPHONE COOPERATIVE, INC.

Central Texas Telephone Cooperative, Inc. ("Central Texas"),[1] by its attorneys, hereby responds to the Federal Communications Commission's ("FCC" or "Commission") request for comments on its proposed high-cost loop regression analysis model used to determine carrier-specific limits on High Cost Loop Support ("HCLS") payments to rate-of-return carriers.[2] While

[1] Central Texas is a rate-of-return, cost-based incumbent local exchange carrier ("ILEC") that provides telecommunications and broadband services to customers in remote, central Texas. Central Texas's service area and network is characterized by a low density of customers, extremely long loops, and rocky terrain. Since the FCC released its regression model data on December 2, 2011, Central Texas has been working with Commission staff to analyze the model and has been discussing possible solutions to the model flaws as noted herein.

[2] *Notice Concerning Universal Service Intercarrier-Compensation Transformation Proceeding*, Public Notice, DA 11-1966 (December 2, 2011) ("*Regression Model Public Notice*").

Central Texas is not opposed to reasonable caps as the Commission transitions to a broadband-based universal service methodology, the FCC's regression model, in its current form, leads to erroneous, arbitrary, and confiscatory results when applied to Central Texas. The FCC's regression model does not take into account the legitimate cost factors Central Texas encounters in its provision of high-cost telecommunications service in Central Texas. Further, the regression model's conclusion that Central Texas's capital expenses and operating expenses lack "prudence" is demonstrably false, lacking any rational connection to the facts, and contrary to the Communications Act of 1934, as amended.

I. The FCC's Model in its Current Form Is Legally Flawed

The FCC describes its econometric process for modeling limits on reimbursable capital expenses ("capex") and operating expenses ("opex") in Appendix H of the its November 18, 2011 *USF/ICC Order*.[3] Using the regression analysis data released on December 2, 2011 and the STATA econometric model the FCC used to perform its regression analysis, Central Texas has been able to develop a basic understanding of how the model is supposed to work and where it fails to work correctly. Along with specific flaws in the model that impact Central Texas, which are discussed below, and proposed solutions to correct those flaws, Central Texas notes that the

[3] *In re Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (November 18, 2011) ("*USF/ICC Order*").

FCC's explanation of its model in Appendix H serves to highlight problems with the model and demonstrates why the model needs to be adjusted.[4]

The model creates caps for 11 of the algorithm steps in the National Exchange Carrier Association ("NECA") 26-step Cost Company Loops Cost Algorithm.[5] These caps are set at the 90th percentile and any costs incurred by a company beyond the 90th percentile are ineligible for recovery.[6] In explaining its use of the 90th percentile threshold, the Commission states that the "methodology uses the 90th percentile because carriers with costs exceeding 90 percent of their similarly-situated peers *may raise questions about the prudence of such expenditures*."[7] While the FCC's use of the word "may" in the previous explanation indicates that costs above the 90th percentile *could* be imprudent (or perhaps not), the model, as applied, assumes that such cost *are* imprudent. Rather than perhaps triggering an examination of a company's costs, the model, in cold mathematical fashion, simply forbids recovery of costs above the 90th percentile whether or not such costs are, in truth, imprudent. Such a definitive financial result, based on results that even the FCC recognizes only "raise questions"[8] about expenses, violates the basic universal service requirements of predictability and sufficiency, [9] as well as the administrative law

[4] Central Texas does not expect the FCC will apply its regression model retroactively and reminds the Commission that jurisprudence generally frowns upon retroactivity in the promulgation of administrative rules and regulations. *See Criger v. Becton*, 902 F.2d 1348 (8th Cir. Mo. 1990). *See also Hem v. Maurer*, 458 F.3d 1185 (10th Cir. Colo. 2006).
[5] Appendix H at ¶ 4.
[6] *Id.*
[7] *Id*. at ¶ 12 (emphasis added).
[8] *Id.*
[9] *See* 47 U.S.C. § 254(b)(5) (mandating that universal service support must be "specific, predictable and sufficient").

requirement that an agency provide a satisfactory and rational justification for its decision.[10] The FCC's use of the 90th percentile as an indicator of imprudent expenses is arbitrary on its face and lacks justification in the record. The FCC simply lacks adequate data to assume that any expense beyond the 90th percentile is frivolous.[11]

The Commission correctly notes in Appendix H that "the *loops* variable was the most influential variable in predicting the values for the algorithm steps."[12] In studying the FCC's regression model, Central Texas confirmed this to be true. In fact, it is the *number* of loops that is the factor that overwhelmingly drives the results of the FCC's regression model.[13] As the FCC states in its assumption about what drives high loop costs, the "more loops the carrier is serving, the higher its expenses will be."[14] This is not necessarily true. As a logical and intuitive example, Verizon serves many loops in the Washington, D.C. area. As the FCC is aware, Verizon does not receive high-cost support in D.C. Further, the number of loops, in and of itself, cannot and does not predict loop costs. The FCC use of loop counts in its AL1 algorithm as the prime driver of its cost calculations leads to erroneous results. As discussed below, Central Texas has equivalent or lower loop counts as other similarly-situated carriers, but experiences higher loop costs and costs per loop due to the nature of its service area and the length of its

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[10] *See Motor Veh. Mfrs. Ass'n v. State Farm Ins.,* 463 U.S. 29 (1983) (requiring a "rational connection" between facts and agency judgment).
[11] *See Portland Cement Ass'n v. Ruckelhaus,* 486 F.2d 375, 393 (D.C. Cir. 1973) ("It is not consonant with the purpose of a rule-making proceeding to promulgate rules on the basis of inadequate data…").
[12] Appendix H at ¶ 30 (emphasis in original).
[13] Under the AL1 algorithm of the FCC's regression model, it multiplies a carrier's number of loops by a coefficient (0.8850) and adds a constant (10.3800) to calculate the cap. As complex as the FCC's model is, this AL1 calculation – based solely on loop counts – is the prime and almost exclusive driver of the entire model's ultimate results.
[14] *Id*. at ¶ 23.

loops. Basing a carrier's support almost exclusively on the number of loops it serves, while essentially ignoring loop length and other legitimate costs, leads to arbitrary results.[15]

The FCC notes in Appendix H that it has developed a "*rough* indicator of terrain-driven costs" using land and percent water.[16] Aside from the fact noted above that loop counts rather than just about any other variable used in the model are driving the results of the model, this so-called "rough" variable to account for terrain-based costs is internally inconsistent, incomplete, and inapplicable to Central Texas. Further, the law requires specificity, not a rough estimate that may or may not be accurate.[17] While the FCC recognizes that "the more land that a carrier has in its territory, the more expensive it is to serve," it ignores this assumption when it removes "large swaths of land" without homes from its calculations.[18] Thus, the need for Central Texas to pass loops through large expanses of land is not accurately calculated by the model. In addition, the FCC relies on a water factor to justify higher expenses, but has not or cannot take into account other terrain factors such as the presence of rock.[19] The Commission is obviously cognizant of other factors that lead to higher loops costs (like terrain),[20] but its model fails to take these factors into account. Instead, the FCC is basically cherry-picking certain studies and data to rely on rather than digging into the relevant facts. Failing to use relevant data, unfortunately, but not surprisingly, leads an administrative agency to erroneous and flawed results.[21]

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[15] *See Portland Cement Ass'n v. Ruckelhaus*, 486 F.2d 375, 393.
[16] Appendix H at ¶ 27 (emphasis added).
[17] 47 U.S.C. § 254(b)(5) (requiring "specific and predictable support mechanisms").
[18] *Id*. at ¶¶ 25 and 26.
[19] *Id*. at fn. 33 (noting that soil databases do not cover certain areas of the United States).
[20] *Id*.
[21] *See Amer. Radio Relay League v. FCC*, 524 F.3d 227, 237 (D.C. Cir. 2008) *citing Nat'l Ass'n of Regulatory Util. Comm'rs v. FCC*, 737 F.2d 1095, 1121 (D.C. Cir. 1984) ("[w]here, as here, an agency's determination "is based upon 'a complex mix of controversial and uncommented

II. The Model Does Not Yield Consistent Results for Similarly-Situated Companies

As Central Texas noted above, the FCC's model used to perform the regression analysis does not take into account the length of loops – a major factor leading to high loop costs. In Central Texas's case, it has a number of customer loops that stretch out for over 20 miles. The model also does not take into account unusual terrain conditions such as rock that must be cut or bored to bury loops. Central Texas notes that it sometimes takes a full day to cut through 100 feet of rock to bury a loop. Central Texas points out that when comparing Central Texas to similarly-situated companies like those listed in the table below, companies with higher concentrations of loops had significantly higher cable and wire facility ("CWF") caps than Central Texas. Noted elsewhere in these comments, the limitation on Central Texas's CWF plant yields devastating financial impacts to Central Texas.

Central Texas's service area has 1.90 loops per square mile. Central Texas has a ceiling or cap on its cable and wire loop facilities of $11,691 per mile. The table below, using actual company data from the FCC's Public Notice[22] in this matter and the STATA econometric tool, compares loops, land area served, and the resulting caps under the proposed regression model. The table supports Central Texas's position that areas with few subscribers, or loops per mile necessitate higher values under the regression caps and that caps should be comparable for similarly-situated companies. However, the table shows contrary results. The table demonstrates that of the six companies listed, three have more loops per mile, (*i.e.*, have a higher population density than Central Texas); however all three have significantly higher caps per

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upon data and calculations,'" there is no APA precedent allowing an agency to cherry-pick a study on which it has chosen to rely in part"). *See Solite Corp. v. EPA*, 952 F.2d 473, 500 (D.C. Cir. 1991) (quoting *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1031 (D.C. Cir. 1978)).

[22] *Regression Model Public Notice*.

mile. Specifically, Example E with 3.08 loops per mile, which is very similar to the total loops of Central Texas (6,228 for Example E versus 6,599 for Central Texas), yields a significantly higher cap. The regression model yields a cap of $17,312 per mile for Example E, $5,621 more per mile than Central Texas even though Example E has a more densely populated area. Central Texas points out that utilizing the same $17,312 per mile cap for its area would yield a loop cable and wire facility investment cap of $60,039,648. This figure is $19,495,037, or 48.08%, higher than Central Texas's current cap and much more consistent with Central Texas's actual investment in cable and wire facilities. Central Texas also points out that Example B which has a density very consistent with Central Texas's density (1.71 loops per mile for Example B), has a cap that is also lower than three of the companies depicted in the table provided with more loops per mile. This is yet another example of the regression analysis producing inconsistent an anomalous results for similarly-situated companies.

There are several ways to improve the FCC's regression model. Central Texas and other carriers can provide the FCC with average loop lengths and other relevant data similar to what they do for the United States Department of Agriculture Rural Development Utilities Program Form 479. Because loop lengths are a major component of loop cost, loop length is a critical component that must be included in order for the model to even have a chance of working accurately.

	Loops	Land Area	AL1 - FCC Cap (Est.)	Cap/Mile	Loops/Mile
Example A	5,637	16,657.22	62,634,114.73	3,760	0.34
Central Texas	6,599	3,468.01	40,544,610.95	11,691	1.90
Example B	1,906	1,116.74	17,283,647.37	15,477	1.71
Example C	24,769	2,089.18	117,771,139.94	56,372	11.86
Example D	15,273	2,961.21	79,714,249.14	26,920	5.16
Example E	6,228	2,023.83	35,037,399.47	17,312	3.08
Example E Cap/Mile for TELCO =			60,039,647.76		

III. The Model Does Not Factor in Depreciation Reserve Impacts

The FCC's regression analysis does not accurately calculate the depreciation reserve of the plant being limited by the caps. Instead, it is purely analyzed on a gross plant value. Central Texas deployed its network many years ago and, like many other companies, faces the need to upgrade facilities since much of its plant is reaching the end of its useful life. In addition, Central Texas will soon need to make the necessary network changes, which will require tremendous investment, to meet the Commission's 4 Mbps downstream/1 Mbps upstream broadband requirements. The regression model as proposed does not allow for this, and its failure to recognize the impacts of depreciation reserve is another significant flaw in the model.

The table below shows the amount of plant and accumulated depreciation for the same companies used in the example above and is intended to show the remaining life, or net book value ("NBV") of the cable and wire assets the Commission limited for Central Texas. On a percentage basis, Central Texas has a NBV of 21.15%, second to last in the referenced peer

group. This would indicate that Central Texas has a justified need for a higher cap under the regression to allow for new broadband-based investment. However, as pointed about above, Central Texas has the second lowest cap per mile, which is completely opposite from what one would rationally expect. In fact, Central Texas's CWF facilities were capped by $28,765,320. Consequently, Central Texas will not receive support for any future investment in CWF facilities necessary to provide broadband. Under the current model caps, Central Texas would need to retire well more than the capped amount of loop plant investment in advance of making new additions. But in reality, Central Texas cannot simply retire the plant, since it needs to be used until new construction can be completed. This Catch-22 inappropriately precludes Central Texas from making the necessary investment to upgrade loop facilities, which is an unintended consequence of the model and contrary to the Commission's goal of encouraging and funding broadband. The FCC's model must take into account the impacts of depreciation reserve on HCLS and allow companies such as Central Texas with significantly depreciated plant to have the opportunity to make necessary upgrades.

	CWF plant	CWF AD	Net Book Value (NBV)	% NBV
Example A	73,897,468	36,040,260	37,857,208	51.23%
Central Texas	77,547,326	61,146,430	16,400,896	21.15%
Example B	18,818,464	10,049,398	8,769,066	46.60%
Example C	115,902,878	96,649,082	19,253,796	16.61%
Example D	83,485,262	48,157,630	35,327,632	42.32%
Example E	33,633,268	21,390,745	12,242,523	36.40%

IV. Limitations Have Been Incorrectly Applied to the HCLS Algorithm

Among other flaws and fixes discussed herein, there are three accounting issues that must be addressed in the calculation and application of the proposed regression-based limitations. First, the HCLS data inputs ("data lines" or "DL") should be limited, not the outputs ("algorithm lines" or "AL"). Second, the limitations must take into account the impact of accumulated depreciation and other Part 32 accounts on the calculation of support. Third, the methodology used to calculate the limitations on depreciation expense must be modified.

Central Texas believes that the limitations should be applied to the HCLS data lines instead of the algorithm lines. This would allow the 26-step algorithm to work as designed. The current limitation of the algorithm lines does not account for the interrelationship between many of the data lines used in the calculation of support. It should be noted that all of the algorithm lines are calculations based on various data lines, so any proposed limitations can also be accomplished by adjusting the data lines. As currently proposed, the FCC's regression model limits outputs, rather than limiting inputs and allowing the inputs to be run through the model. An excellent example of this is AL3, also referred to as the "A" Factor, which is calculated as CWF divided by Total CWF. The "A" Factor is used in the allocation of expenses associated with CWF. AL3 is one of several algorithm steps that uses both AL and DL inputs to produce the result; in this case AL1, DL 255 (Account 2400 - Total CWF) and DL 815 (Account 2680 – Amortizable Tangible Assets – CWF). The FCC's proposed treatment only limits the AL1 amount, however, neither DL 255 (which includes AL1) nor DL 815 are adjusted. As a result, the algorithm is not allowed to calculate support as it was intended and produces an incorrect result.

This is extremely significant to Central Texas. Prior to regression caps, 2010 Central Texas data at a national average cost per loop of $509.06, yielded estimated HCLS of $4,276,552. The proposed regression caps, taking only AL1 – CWF assigned to Cat 1.0 into consideration, limited Central Texas by $28,765,320, reducing HCLS to $2,034,670, a reduction of $2,241,882 or 52.42%. A significant driver in this reduction was the fact that AL3 was erroneously adjusted. AL3, prior to the regression caps, was 89.38%, which dropped to 52.28% after the caps. AL3, referred to as the "A" factor, represents the CWF loop percentage of the carrier. The higher this amount, the more plant and expenses are allocated to a carrier's study area cost per loop, increasing their support. The FCC's approach incorrectly impacts this factor and significantly impacts Central Texas. Again, AL3 is just one example of this inappropriate result and Central Texas firmly believes that applying caps to the DL lines will resolve this error.

The following example shows the specific impact of removing the capped investment for all of the appropriate data lines and allowing the HCLS algorithm to work as intended. Instead of removing $28,765,320 from AL1- CWF assigned to Cat 1.0, AL1 should not be adjusted and the following Data Lines should be reduced instead by this same $28,765,320:

DL 160 – Account 2001 – Total Plant in Service

DL 255 – Account 2410 – Total CWF

DL 700 – Cost Study Average CWF – Total Account 2410

DL 710 – Cost Study Average CWF Cat 1 – Total Subscriber Line Plant

Doing so results in adjusted HCLS of $2,560,087. This figure is $525,417 higher than the FCC's capped amount and, unlike the FCC's capped amount under the current model, reflects reality to a greater extent. AL3 is also a significant driver of erroneous reductions. The

inappropriate limitation of AL1 reduces AL3 to 52.28%. If the data lines were capped, AL3 would be a much more appropriate 82.85%.

V. Limitations Are Missing Critical Components

Accumulated depreciation and other Part 32 accounts must be taken into consideration if the FCC is going to limit the 11 proposed algorithm lines. The FCC's proposed regression analysis does not limit the accumulated depreciation related to Central Texas CWF assets removed via AL1, nor does it remove amounts from other associated accounts. If the FCC is going to limit AL1, the following data lines should also be limited:

DL 160 – Account 2001 – Total Plant in Service

DL 190 – Account 3100 – Accumulated Depreciation

DL 255 – Account 2410 – Total CWF

DL 280 – Account 3124 – CWF Accumulated Depreciation

DL 700 – Cost Study Average CWF – Total Account 2410

DL 710 – Cost Study Average CWF Cat 1 – Total Subscriber Line Plant

By not limiting these data lines, the FCC's regression analysis results in flawed and unfairly punitive results on Central Texas. In addition, as discussed above, limiting the algorithm lines and not the data lines does not allow the HCLS algorithm to work as designed.

There could be some question as to how to appropriately limit the accumulated depreciation reported on DL 190 and DL 280, but this can be handled in one of two ways. First, a ratio of the limited investment in the associated plant account to the total plant account could be developed and applied to the accumulated depreciation. Alternatively, the limited plant could be handled as a retirement, in which case Part 32 for retirement accounting would treat the

investment as fully depreciated. Whichever method is selected would be more appropriate than the current approach of ignoring depreciation reserve and other associated accounts in the algorithm. The limitation of algorithm lines rather than data lines yields inappropriate results and ignores the net book value of the assets being removed. An example follows:

As was calculated above, instead of removing Central Texas's $28,765,320 from AL1-CWF assigned to Cat 1.0, AL1 should not be adjusted and the following Data Lines reduced instead by this same $28,765,320:

160 – Account 2001 – Total Plant in Service

255 – Account 2410 – Total CWF

700 – Cost Study Average CWF – Total Accounts 2410

710 – Cost Study Average CWF Cat 1 – Total Subscriber Line Plant

The next step is to reduce CWF accumulated depreciation reported on DL 280 and total company accumulated depreciation reported on DL 190 to reflect the net book value of the assets removed. For purposes of this example, this was done via a ratio. Central Texas reported $61,146,430 of CWF accumulated depreciation on DL 280 and $77,547,326 of total CWF on DL 255. Consequently, Central Texas's CWF plant is 78.85% depreciated. Multiplying this 78.85% ratio by the $28,765,320 of CWF limited results in an accumulated depreciation figure of $22,681,590, which is the figure used to reduce DL 190 and DL 280. Performing this calculation results in adjusted HCLS of $3,350,564 for Central Texas, $1,315,894 higher than the FCC's cap using the current regression model on Central Texas and an overall $925,988 adjustment to the company. While this reduction is still significant, it is not as substantial as the results using the currently flawed model that yielded the original $2,241,882 reduction of HCLS due to the FCC's

AL 1 regression cap. The FCC must run the model in a more logical and consistent manner that leads to more logical and consistent results. To do otherwise jeopardizes the integrity of the regression model and sets the FCC up for a court challenge.

VI. The Model Does Not Appropriately Calculate Limitations on Depreciation Expense

Depreciation expenses have not been properly accounted for in the FCC's regression model. Specifically, depreciation expenses should not be analyzed independently via regression, as they are a byproduct of the associated plant investment. Instead, depreciation expenses should be reflected as a function of the asset values removed. The FCC's current, regression-based approach results in limitations on depreciation expenses on AL17 that are excessive and inconsistent with Part 32 accounting principles. Central Texas's depreciation rates are approved by the Texas state commission and are therefore not subject to unilateral adjustment by the company. Finally, Central Texas is audited annually by an independent CPA firm that verifies the proper use of the approved depreciation rates, thus there is minimal risk of improper application. Therefore, regression should not be used to limit depreciation expense. Instead, depreciation expense limitations should be computed as the percentage of limitation of the associated plant investment multiplied by depreciation expense.

Central Texas had $2,301,108 of depreciation removed via the proposed regression cap on AL17 – Depreciation and Amortization Expense assigned to CWF category 1.0. This depreciation amount divided by the $28,765,320 of CWF limited for Central Texas equates to a depreciation percentage rate of 8.0% or an estimated useful life of 12.50 years. This is excessive and substantially greater than Central Texas's actual depreciation rate for cable and wire facilities. While several options are available to resolve this, for purposes of this example a ratio

will be used. Central Texas reported $4,682,584 of CWF depreciation expense on DL – 530 and $77,547,326 of CWF assets included in DL – 160. This ratio of expense to assets equates to a depreciation percentage of 6.04% or an estimated useful life of 16.56 years, much closer to the typical depreciable life for CWF assets and 4.06 years longer than what resulted from the FCC's regression. The 6.04% on the $28,765,320 of limited CWF equates to a decrease in depreciation expense of $1,840,980. This figure is $460,128 less than the $2,301,108 proposed by the FCC if it uses its model in its current form.

The impact of the proposed regression caps to Central Texas, just taking into consideration the $2,301,108 reduction of AL17 – Depreciation and Amortization Expense assigned to CWF category 1.0, dropped Central Texas's HCLS from $4,276,552 to $2,560,397, a reduction of $1,716,154 or 59.87%. Applying the proper adjustment to the depreciation of $1,840,980 yields a support level of $2,903,559. This is $343,161 higher than the amount the FCC's current model calculates.

For Central Texas, the current regression caps severely limit AL1- CWF assigned to category 1.0 and AL17 – Depreciation and Amortization Expense assigned to CWF. This reduction is primarily driven by an improper reduction of AL1 based on similarly-situated companies. HCLS support that was originally calculated at $4,276,552 is now limited to $1,608,642 based on the heavy weight the AL1 caps have on related calculations. This is a staggering reduction of $2,667,910, or 62.38%. Correcting the application of the caps, as discussed above, by limiting DLs instead of ALs, adjusting accumulated depreciation and other appropriate accounts, and the depreciation expense calculation improves this situation, but not significantly since Central Texas's original HCLS amount of $4,276,552 would still capped by

$2,063,546. The FCC must fix its AL1 calculations to allow for legitimate factors beyond plain loop counts, as discussed above, and then allow these adjustments to flow through the model, rather than just capping the results as the mode currently does.

VII. Conclusion

While the FCC's regression model is legally flawed in its current form, Central Texas is confident that it can be fixed to account for factors that result in high loop costs in rural Texas.[23] In its current form, the model is confiscatory and subjects Central Texas to substantial financial harm. For the foregoing reasons, the FCC must fix its model to take into account prudent and legitimate factors leading to Central Texas's high loop costs or risk having the inherently flawed model stayed in court and either rejected or remanded.

Respectfully submitted,

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[23] FCC staff has been transparent and helpful in discussing the model with Central Texas.