

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

In the Matter of

Connect America Fund)	WC Docket No. 10-90
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

**TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.
REPLY TO OPPOSITIONS TO APPLICATIONS FOR REVIEW
AND PETITIONS FOR STAY**

Texas Statewide Telephone Cooperative, Inc. (TSTCI) is an association of 37 small, rural incumbent rate-of-return carriers in Texas. Please see Attachment A for a list of TSTCI member companies. TSTCI is filing this Reply to the Opposition of CTIA - the Wireless Association® (CTIA) to the Applications for Review filed by the National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies and Western Telecommunications Alliance (the Rural Associations); Central Texas Telephone Cooperative, Inc. (Central Texas); The Blooston Rural Broadband Carriers; Accipiter Communications, Inc.; East Ascension Telephone Company, LLC (EATEL) and Silver Star Telephone Company, Inc. (Silver Star). TSTCI is also filing this Reply to the Opposition of CTIA and the National Cable & Telecommunications Association (NCTA) to the Petitions for Stay filed by the Rural Associations, EATEL and Silver Star.

The Applications for Review and Petitions for Stay offered compelling factual, technical and legal arguments as to why the Applications for Review of and Petitions for Staying the Wireline Competition Bureau’s April 25, 2012 Order adopting a methodology for establishing benchmarks for high cost loop support (HCLS) should be granted.¹ In contrast to the well supported arguments in the Applications for Review and Petitions for Stay, the Oppositions to these requests failed to offer any comparable justifications or supporting arguments to show why the relief requested should not be granted.

¹ See *Connect America Fund, High-Cost Universal Service Support*, Order, WC Docket Nos. 10-90 and 05-337, DA 12-646 (rel. April 25, 2012) (“Order”).

For example, Central Texas will lose close to \$1 million in HCLS through the end of 2013 because of the Bureau's April 25 Order. This would constitute acute and substantial financial harm to Central Texas, a TSTCI member company. Central Texas presented the threshold question for review as to whether the Bureau acted in compliance with the Administrative Procedure Act and followed the proper administrative procedures in adopting the revised regression model. Central Texas also presented for review questions as to whether the Bureau's use of road miles as a proxy for loop length is based on an erroneous finding of fact; whether the Bureau's use of bedrock adequately captures high cost, whether the Bureau's use of road crossings is based on an erroneous finding of fact and penalizes remote rural carriers with long loops and whether the Order complies with the "predictability" requirement in the statute. CTIA's Opposition fails to address any of these questions or issues. CTIA simply discusses generalities and attempts to divert attention to the issue of rate-of-return regulation and the premise that RoR ILECs believe they are entitled to full recovery of costs.²

Another example are the issues presented by The Blooston Rural Carriers' Application for Review, that the Bureau's model is fatally flawed because it relies on inaccurate TeleAtlas data to determine study area boundaries, that the Bureau's model will not achieve the Commission's objectives and other flaws in the model like whether the 90th percentile cut-off is valid. CTIA's Opposition to the Applications for Review fails to address any of these issues. CTIA's answer is basically that the carriers who filed Applications for Review or Petitions for Stay will simply have to adjust their business models and that rate-of-return regulation should be eliminated.³

The Rural Associations presented several sound technical and legal arguments supporting their Application for Review and Petition for Stay. The Rural Associations point to the significant technical shortcomings in the revised formulas, the severe and unpredictable reductions in support payments that would result and that the caps will fail to provide incentive for efficient operations and prudent investment. CTIA's response to these issues, in addition to its opposition to rate-of-return regulation, is simply that the Bureau's Order "reasonably implements the Commission' directive to use regression analysis to limit support for excessive capital and operating costs."⁴ CTIA simply fails to address any of the specific issues raised in the Applications for Review and Petitions for Stay.

² Opposition of CTIA - The Wireless Association® to Applications for Review and Requests for Stay, pp. 3-4.

³ Id., p. 5.

⁴ Id., p. 6.

The Opposition of the National Cable & Telecommunications Association (NCTA) to the Petitions for Stay similarly relies on generalities rather than specific responses to the issues presented by the Petitioners. NCTA's answer to the Petitions for Stay is that the Commission should rely on the waiver process and that a blanket stay would not serve the public interest.⁵ However, the Rural Associations' Petition points out that, "the Commission cannot save an invalid rule by 'tacking-on' a waiver process."⁶

TSTCI contends that the Commission should not base policy implementation on the waiver process. If rules and the policy the rules are intended to implement rely on the waiver process, and if many companies are forced to rely on the waiver process to survive, then that public policy cannot be a valid policy.

Another issue is that the Commission's waiver process has not been revised for many years and is not well suited to address the numerous issues with the regression benchmarking order that have been identified in the Applications for Review and Petitions for Stay. In particular, there are no set timeframes for Commission review of a waiver, and that makes the outcome of a waiver application problematic for rural companies. Investors and lending institutions are not likely to find comfort in knowing that a company has a waiver pending at the Commission that may improve its financial condition. As a result, relying on the waiver process to solve the numerous issues raised in the Applications for Review and Petitions for Stay is not likely to give the rural industry a good basis for future capital investment or to make the rural industry viable in years to come.

If companies are going to be put in the position of relying on the waiver process for relief from the benchmarking methodology, TSTCI urges the Commission to make the waiver process simpler and less costly for rural companies who have limited resources. It is very important that the Commission have specified time frames for processing waivers, and there should be enough specifics about the requirements for the waiver applications so that the burden and uncertainty currently associated with the waiver process is minimized for rural companies.

Further, the Rural Associations stress the future harm that is likely to occur to many if not most RLECs because of the volatility and unpredictability of the regression analysis-based caps and that as a result of this volatility and unpredictability, investors and lenders will be reluctant to invest in the RLEC industry over the next decade.⁷

⁵ Opposition of the National Cable & Telecommunications Association to Petitions for Stay, pp. 4-5.

⁶ Rural Associations' Petition for Stay, p. 8.

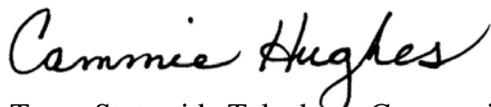
⁷ Id., p. 11.

Silver Star provides specific data on the harmful effects of the regression model and its counter-intuitive results in its Application for Review. Silver Star contends that its projected loss of HCLS support over the next few years is driven largely by the investment in broadband facilities that the company has already made.⁸ Silver Star maintains that “these aspects of the model create a paralyzing uncertainty for carriers, like Silver Star,” and will cause or force carriers from making additional broadband investments.⁹

Neither NCTA’s nor CTIA’s Oppositions address any of the specific, fact-based issues raised by Silver Star or the Rural Associations or any of the other specific issues cited in the other Petitions for Stay and Applications for Review. Both NCTA and CTIA simply rely on generalities in their Oppositions and simply ignore the very real and specific issues raised by the parties filing for Review or Stay of the Bureau’s Order.

TSTCI strongly supports the Applications for Review and Petitions for Stay. The parties seeking relief from the Bureau’s Order raise valid issues that are very important to the rural industry. These issues are too important to be brushed off with generalities as CTIA and NCTA attempt to do in their Oppositions. TSTCI urges the Commission to put little weight in the Oppositions filed by CTIA and NCTA. Instead, TSTCI urges the Commission to give careful consideration to the serious issues raised in the Applications for Review and Petitions for Stay and to grant the relief requested by the rural companies.

Respectfully submitted,



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⁸ Silver Star, Application for Review, p. 9.

⁹ Id., p. 9.

TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.

Alenco Communications, Inc.
Brazoria Telephone Company
Brazos Telecommunications, Inc.
Brazos Telephone Cooperative, Inc.
Cameron Telephone Company
Cap Rock Telephone Cooperative, Inc.
Central Texas Telephone Cooperative, Inc.
Coleman County Telephone Cooperative, Inc.
Colorado Valley Telephone Cooperative, Inc.
Community Telephone Company, Inc.
Cumby Telephone Cooperative, Inc.
Dell Telephone Cooperative, Inc.
E.N.M.R. Telephone Cooperative, Inc.
Electra Telephone Company
Etex Telephone Cooperative, Inc.
Five Area Telephone Cooperative, Inc.
Ganado Telephone Company, Inc.
Hill Country Telephone Cooperative, Inc.
Industry Telephone Company, Inc.
La Ward Telephone Exchange, Inc.
Lake Livingston Telephone Company
Lipan Telephone Company, Inc.
Livingston Telephone Company
Mid-Plains Rural Telephone Cooperative, Inc.
Nortex Communications, Inc.
Panhandle Telephone Cooperative, Inc.
Peoples Telephone Cooperative, Inc.
Poka Lambro Telephone Cooperative, Inc.
Riviera Telephone Company, Inc.
Santa Rosa Telephone Cooperative, Inc.
South Plains Telephone Cooperative, Inc.
Tatum Telephone Company
Taylor Telephone Cooperative, Inc.
Wes-Tex Telephone Cooperative, Inc.
West Plains Telecommunications, Inc.
West Texas Rural Tel. Cooperative, Inc.
XIT Rural Telephone Cooperative, Inc.