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September 14, 2012

<u>Via ECFS</u>

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: ***Notice of Ex Parte***
WC Docket Nos. 10-90, 07-135, 05-337, 03-109
CC Docket Nos. 01-92, 96-45
GN Docket No. 09-51

Dear Ms. Dortch:

On Wednesday, September 12, 2012, Jamey Wigley, General Manager of Central Texas Telephone Cooperative, Inc. ("Central Texas"), Lawana Drosche, Finance Manager of Central Texas, Clay Sturgis of Moss Adams, Caressa Bennet and Kenneth Johnson of Bennet & Bennet, PLLC, and Michael Romano of the National Telecommunications Cooperative Association ("NTCA"), met with 1) Carol Mattey, Amy Bender, Patrick Halley, Gary Seigel, and Joseph Sorresso of the Federal Communications Commission ("FCC" or "Commission") Wireline Competition Bureau ("WCB"); and 2) Matthew Berry, Chief of Staff to Commissioner Ajit Pai. On Thursday September 13, 2012, Jamey Wigley, Lawana Drosche, Clay Sturgis, Caressa Bennet, and Kenneth Johnson met with Michael Steffen, Legal Advisor to Chairman Julius Genachowski. At these meetings, Central Texas discussed its Petition for Waiver[1] and Application for Review[2] of the FCC's universal service rules.

Central Texas explained that its unique situation warrants a limited and targeted waiver of the FCC's rules. Central Texas provided details about its service area, noting that it serves approximately one customer for every two road miles. Central Texas explained how it serves an extremely high-cost area that that includes difficult terrain – factors that directly affect Central Texas's loop and overall network costs. Central Texas has been burying cable since the 1970s

[1] *In re Petition for Waiver of Central Texas Telephone Cooperative, Inc.*, WC Docket Nos. 10-90, *et. al.*, (filed Sep. 4, 2012).
[2] *In re Central Texas Telephone Cooperative, Inc. Application for Review*, WC Docket Nos. 10-90, *et. al.*, (filed May 25, 2012).

because the cost of maintaining aerial cable is more costly than burying and maintaining underground cable. While burying cable leads to justifiably high capital expenses ("capex"), such a prudent and efficient strategy has led to extremely low operating expenses ("opex"). Central Texas stated that the Commission should collapse the opex and capex results into one overall loop cost output to be used in the regression model. Such a solution would capture Central Texas's opex efficiencies and would eliminate the need for a waiver. The Commission could modify the model in this manner on an industry-wide basis, encouraging carriers to make prudent cost-cutting decisions based on their own individual circumstances, rather than making decisions based on capex and opex cap outcomes. The Commission could also grant Central Texas's requested waiver and not apply the capex cap to Central Texas in recognition of Central Texas's extremely low opex. Central Texas noted that its opex is just 45 percent of the regression model's opex cap, making it one of the most efficient companies on the opex side that was also capped on the capex side.[3]

Central Texas explained how it stays one step ahead of customer demand, building only what its customers need, rather than overbuilding and taking out large loans to replace all of its copper loops with fiber. It is Central Texas's network philosophy to only bury enough fiber to get close enough to the customer to provide FCC-mandated speeds, rather than recklessly pursue a needlessly costly "fiber-to-the-home" strategy. Central Texas noted how it leverages its copper plant and fiber loops to provide high-speed broadband services in an economically efficient and frugal manner. Unfortunately, the FCC's regression model fails to recognize this efficient use of depreciated copper loops and concomitant cost savings and, instead, erroneously labels Central Texas's capital expenditures as "imprudent." Central Texas also discussed its plans to implement further broadband network improvements based on the Commission's National Broadband Plan goals. Grant of a limited waiver will allow Central Texas to continue pursuing its broadband expansion plans.

Central Texas noted that it has raised its local rates and will raise them further in order to meet the FCC's local rate benchmarks. Central Texas is prohibited by Texas statute from raising its local rates more than fifty percent in a 12-month period and the revenue generated by such rate hikes is capped.[4] Central Texas is raising its local rates to the maximum extent allowed under Texas law.

Central Texas also discussed narrowly-tailored waiver relief that would cover years 2012 and 2013. Specifically, Central Texas noted that if the regression model's coefficients stay the same, it will be able to operate under the caps in 2014 and beyond. Accordingly, Central Texas stated to WCB that its need for a waiver of the regression model covers only the last six months of 2012 and all of 2013.

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[3] Of the 66 companies capped by the capex limitation in the regression model, Central Texas had the second lowest opex to capex percentage.

[4] Texas HB 2680 (2011), *amending* Texas Utilities Code § 53.304.

Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,

By: *<u>/s/ Kenneth C. Johnson</u>*

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