Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Petition for Waiver of Central Texas Telephone Cooperative, Inc.	)	

COMMENTS OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The National Telecommunications Cooperative Association ("NTCA")[1] hereby files comments in the above-captioned proceedings to support the Petition submitted by Central Texas Telephone Cooperative, Inc. ("Central Texas") for a temporary waiver of the regression analysis caps on the recovery of certain investment-related and operating expenses through the universal service fund ("USF") support. Given the sound explanations and detailed evidence provided by Central Texas and the many questions that continue to swirl around development and application of the regression analysis caps – and in light of the risk of harm to the public interest that could result from strict application of the caps in the case of Central Texas – the Wireline Competition Bureau (the "Bureau") should grant Central Texas' Petition.

By way of background, Central Texas operates across 3,372 square miles and 7,119 road miles, serving fewer than 1.5 customers and 1.8 access lines per square mile.[2] These vast

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1 NTCA represents more than 570 rural rate-of-return regulated telecommunications providers. All of NTCA's members are rate-of-return-regulated local exchange carriers, and many of its members provide wireless, video, broadband Internet, satellite, and/or long distance services to their communities; each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended. Central Texas is an NTCA member.

2 Petition at 3.

distances and the associated road miles result in the need to deploy longer loops to reach individual consumers.[3] Central Texas indicates that the most densely populated town in its study area is San Saba, a community of 1.8 square miles in size with just over 3,000 residents.[4] Thus, the very small town of San Saba not only provides very little in the way of a "metropolitan anchor" for the delivery of services by Central Texas, but it also highlights the "relative rurality" of the entire area served by Central Texas. Central Texas explains how harsh climatic conditions and rocky terrain further present challenges in the deployment of network plant.[5] Central Texas notes that it is the only provider of terrestrial voice and broadband services throughout its study area, with the competitive broadband offering of a single cable provider limited to the town of San Saba. Central Texas also indicates that both this cable provider and the limited voice and data offerings of a few wireless carriers rely upon backhaul facilities of Central Texas.[6]

The facts presented by Central Texas provide more than good cause for the grant of a waiver from the regression analysis caps or, in the alternative, the award of some other relief such as the adoption of a single cap for combined operating and capital expenses.[7] Indeed, the Petition highlights several critical flaws in the current regression model that require both immediate relief for Central Texas specifically and corrections to the model more generally. As an initial matter, the Central Texas Petition demonstrates the oddity of a model that assumes that

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3 *Id*. at 4.

4 *Id*. at 4-5.

5 *Id*. at 5-6.

6 *Id*. at 6-7.

7 *Id*. at n. 15.

providers should realize lower costs in deploying telecommunications plant over greater distances – the negative coefficient for road miles in the model is intuitively incorrect, highlighting an underlying flaw in the model that should be corrected through more robust and deliberate testing of independent variables. This oddity penalizes companies like Central Texas, whose consumers are spread across a wide area rather than being clustered within a handful of communities that could be reached through shorter loops that traverse fewer road miles.

The Central Texas Petition also underscores the failure of the model to recognize the tradeoffs between capital investment and operating expenses – a tradeoff recognized by one of the Bureau's own peer reviewer months ago prior to adoption of the current model.[8] Central Texas requires relief because its capital expenses are higher than those identified by the model as a "benchmark." Yet a more careful and considered review reveals that Central Texas runs an extremely efficient business, with operating expenses of $480 per loop even as the model sets a cap of $1,063 for operations.[9] Put another way, Central Texas has clearly "put its money back into the ground" – helping to maintain a remarkably low level of operating expenses by reinvesting first and foremost into networks that respond to consumer demands and the call of the Federal Communications Commission (the "Commission") for robust broadband. Central Texas further notes that, despite these efforts to invest in a hard-to-serve area, it has not yet achieved the Commission's desired 4/1 Mbps-speed broadband for many of its customers, and

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[8] *See Ex Parte* Letter from Patrick Halley, Bureau, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al*. (dated March 9, 2012), at Appendix B (noting that capping individual cost categories "ignores any complementary or substitutability between the various cost components" and "may discourage a company from overall cost-minimization").

[9] Central Texas notes that it has the second lowest opex to capped opex ratio of any of the 66 companies affected by the capex cap. *See Ex Parte* Letter from Kenneth Johnson, Counsel for Central Texas, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al*. (dated Sept. 14, 2012) ("Central Texas *Ex Parte* Letter"), at n. 3.

that its plans to achieve such speeds through network upgrades over the next several years will be delayed if not cancelled altogether in the absence of some relief in response to its Petition.[10] Central Texas has thus made a prudent trade-off, achieving low operating expenses through decreased maintenance needs and remarkably prudent day-to-day operations – and yet the two-cap model only penalizes Central Texas for this decision, rather than taking account of the overall efficiency of the company's management.

In short, Central Texas' Petition raises several issues similar to those identified in the Application for Review submitted nearly five months ago by NTCA and other rural carrier associations,[11] including concerns with respect to questionable coefficients and related data (such as road miles), the lack of transparency and predictability resident within the caps, and the general failure of the caps to distinguish between companies that operate efficiently in the face of challenging circumstances and alleged "outliers" that the Commission wishes to catch through the caps. Unfortunately, Central Texas cannot wait for the Commission to resolve these

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[10] *Id*. at 12. Interestingly, Central Texas is adversely affected by the capital expense cap even though it has made efficient use of existing copper facilities to deliver basic levels of broadband in advance of anticipated upgrades in the next several years to deliver 4/1 speeds to consumers. In this regard, Central Texas is apparently caught by yet another deficiency in the model – a "depreciation trap" that penalizes carriers for making efficient use of existing, depreciated network while leaving such carriers with little ability to determine with any reasonable certainty whether and to what degree they can "build their way out of the cap" by installing newer plant and thus reducing their percentage of depreciated plant. As NTCA has explained previously, if the Commission truly intends to use these caps to guide "efficient" investment, it must make them more transparent and predictable – including either by allowing carriers to use existing, depreciated plant to deliver quality broadband without being penalized therefore or by providing clearer guidance to companies about what level of investment a company can make to replace such depreciated plant without continuing to trigger the caps going forward. *See Ex Parte* Letter from Michael R. Romano, Senior Vice President-Policy, NTCA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al*. (dated Sept. 18, 2012),

[11] Application for Review of NTCA, *et al*., WC Docket No. 10-90, *et al*. (filed May 25, 2012).

concerns through the Application for Review, and it presents more than "good cause" for the Bureau to grant its waiver request now. Indeed, Central Texas has narrowly tailored its request, seeking only an eighteen-month window for relief so that it can complete network upgrades and reduce the amount of depreciated copper in its network over that period,[12] thereby achieving the benefits of both expanding the offering of quality broadband to additional customers and hopefully "escaping" the cap thereafter (provided certain assumptions and predictions about the model are accurate). The evidence demonstrates that Central Texas has been an efficient and effective steward of universal service support to date, that it has been prudent in the tradeoffs of network investment and operations, that it has reasonable plans in place to upgrade its network plant to deliver higher-speed broadband in the next several years consistent with the Commission's objectives, and that a limited and targeted waiver would serve the public interest. For the foregoing reasons, NTCA urges the Bureau to grant Central Texas' Petition.

Respectfully submitted,

NTCA
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The Voice of Rural Telecommunications
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12 *Central Texas Ex Parte Letter* at 2.