Before the

Federal Communications Commission

Washington, D.C. 20554

In the Matter of	
Connect America Fund	WC Docket No. 10-90
ETC Annual Reports and Certifications	WC Docket No. 14-58
Establishing Just and Reasonable Rates for Local Exchange Carriers	WC Docket No. 07-135
Developing a Unified Intercarrier Compensation Regime	CC Docket No. 01-92

COMMENTS OF SOUTH PARK TELEPHONE COMPANY

COMES NOW South Park, L.L.C. d/b/a South Park Telephone Company ("SPTC" or the "Company") to submit comments on the Federal Communications Commission's ("FCC's" or "Commission's") Notice of Proposed Rulemaking ("*NPRM*") in the above captioned docket.[1]

SPTC is a small rural telephone company that serves a large, extremely remote, low-density, mountainous area that covers approximately 603 square miles in the state of Colorado. SPTC does not serve any cities or towns which would mitigate its average cost per loop. The territory's extensive size and rugged terrain present unique challenges to deploying and maintaining a communications network, including higher construction costs to deploy facilities in rocky, mountainous terrain and higher maintenance costs due to poor road infrastructure,

[1] *Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking*, Federal Communications Commission, FCC 18-29, rel. Mar. 23, 2018 ("*Order on Reconsideration*" or "*NPRM*").

extreme weather, and the long distances required to reach different parts of the network for installation and repairs. Because of its sparsely-populated high-cost service area, the Company is heavily dependent upon federal high-cost support to maintain reasonable rates and quality of service for its customers.

On November 27, 2012 SPTC filed a waiver of the Commission's $250 per-line monthly cap ("$250 Cap") on federal support,[2] that was established in the *USF Transformation Order*.[3] SPTC has extensive experience with the $250 Cap and offers its comments on the Commission's proposal to adjust this regulation.

I. Background

SPTC was founded in 1996 and serves the mountainous South Park Valley area in Colorado which is extremely remote - approximately 10,000 feet above sea level. Many parts of this region had no telecommunications service due to the very high costs per-customer to provide service until SPTC began providing service. SPTC's low-density service area is quite large, covering approximately 603 square miles, with no cities or towns in the serving area which would mitigate its average cost per loop. The territory's extensive size and rugged terrain present unique challenges to deploying and maintaining a communications network, including higher construction costs to deploy facilities in rocky, mountainous terrain and higher maintenance costs due to poor road infrastructure, extreme weather, and the long distances required to reach different parts of the network for installation and repairs. Because of its sparsely-populated high-cost service area, the Company is heavily dependent upon federal high-cost support to maintain reasonable rates and quality of service for its customers.

---

[2] South Park, L.L.C. d/b/a South Park Telephone Company Petition for Waiver, WC Docket Nos. 10-90 and 05-337 (filed November 27, 2012). Subsequently withdrawn Nov. 14, 2013.

[3] *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, FCC 11-161, Appendix A, Section 54.302 (rel. Nov. 18, 2011) ("*USF Transformation Order*").

When developing SPTC's network design, SPTC determined that installing cable and wire facilities to its consumers would not be cost effective and would therefore be an inefficient and imprudent use of federal support and loans for capital expenditures. Instead, SPTC implemented an innovative and cost-effective combination of fixed wireless and wireline solutions and continually searches out new and more efficient technological solutions to solve its network challenges. However, despite its efforts to operate efficiently, the very high costs of serving SPTC's territory remain significant—costs that SPTC has been unable to recover by virtue of the Commission's Universal Service ("USF") rules for the $250 Cap. Specifically, since 2012, SPTC has experienced a reduction in support totaling $1,135,502 resulting from the $250 Cap, or on average $162,215 annually.

II. Notice of Proposed Rulemaking

In its *NPRM*, the Commission seeks comment on lowering the $250 Cap to $225 or $200. It notes that "approximately 13 study areas are affected by the per-line monthly limit."[4] The Commission further explains that only 10 carriers have petitioned the Commission to justify higher support amounts, and some withdrew their requests. (SPTC is one such company that filed and withdrew its request.) The Commission has awarded relief in only three instances to two carriers. The conclusion reached by the Commission is that the limit "has been neither too restrictive nor likely to have a negative impact on the ability of carriers to provide service."[5] Reducing the per-line monthly limit would affect an additional 25 study areas. A motivation for this proposal is that "lowering the per-line monthly limit would also free up additional support within the legacy budget for other carriers."[6]

[4] *NPRM* at para. 158.
[5] *Id.* at para. 159.
[6] *Id.* at para. 159.

III. The $250 Cap Should Not be Reduced

SPTC would be significantly negatively impacted were the Commission to lower the cap. As described above, due to the imposition of the $250 Cap, SPTC has experienced a reduction in support on average of $162,215 annually. SPTC estimates that lowering the cap to $225 would result in a reduction to SPTC of an estimated additional $43,500 per year, while lowering it to $200 would result in a reduction to SPTC of an estimated additional $87,000 per year.

The Company could not remain viable with reductions of this magnitude and would most certainly "put consumers at risk of losing voice services, with no alternative terrestrial providers available to provide voice telephony service."[7] Since the imposition of the $250 Cap in 2012, SPTC has continued to reduce expenses to the point that further reductions would jeopardize the voice and broadband services that the Company provides to its extremely remote and mountainous service area.[8] Indeed, as SPTC is the only terrestrial voice and internet access provider that covers the Company's entire service area, the approximately 1,200 locations in SPTC's service area will be at risk of not just losing access to voice, but access to high speed internet services.[9] And, beyond those consumers to whom SPTC directly provides its services, all consumers in the territory will be at risk of losing service or experiencing degraded service because alternative providers of terrestrial voice and broadband services for the area today rely exclusively on SPTC for means of wireless and/or wireline backhaul and other services, including several governmental agencies that rely on SPTC's network and partner with SPTC to provide services.

---

[7] *USF Transformation Order* at para. 540.

[8] For example, SPTC's corporate operations expenses were approximately 27 percent of the $829,843 computed total allowable expense limitation for study year ending 2016.

[9] According to CAF-A-CAM 2.0 – Report Version 3.0, the number of rate of return locations in SPTC's service area was reported to be 1,209.

Contrary to the Commission's conclusion, SPTC submits that the fact that the majority of carriers filing waivers from the $250 Cap have withdrawn from the process is an indicator that the waiver process is unreasonable and burdensome. The vast majority of carriers affected by the $250 Cap are extremely small carriers. Examining 3Q:2018 USAC FCC Filings shows that of the now 14 carriers affected by the $250 Cap, 12 carriers have access lines of 845 or less.[10] SPTC's experience is that for carriers with an extremely small customer base, the waiver process is too costly and time consuming for an uncertain outcome.

The fact that only two carriers received a wavier does not indicate that the limit is too high. Rather, the circumstances of extremely costly and sparsely populated areas relative to other rural study areas are not common. If anything, the current limit should be modified to address these unique and fact specific circumstances without requiring a costly and burdensome waiver process. (SPTC offers some well-established alternatives in the subsequent section.)

Lowering the $250 Cap will cause other extremely small carriers to be faced with a costly and burdensome process with the likelihood of limited or modest relief—such cost far outweighs the public interest to ensure that voice and broadband services are available to end-user customers that have little or no alternative for service.

IV. Alternatives to the $250 Cap

A. <u>Methodology</u>

SPTC submits that the Commission should give consideration to carriers with very small reported working loops. The average working loop count for carriers receiving High Cost Loop

[10] *See* USAC, FCC Filings, 2018 Third Quarter Filings, HC01- High Cost Support Projected by State by Study Area - 2Q2018.xlsx (filter for study areas where ILEC Cap Factors (column H) is less than 1), and HC05- HCL by State by SAC – column F (reported working lines). There is one additional carrier affected by the $250 Cap from when the FCC issued its *NPRM*.

Support ("HCLS") is 5,734.[11] All carriers affected by the $250 Cap have working loops less than the average and, in 10 of the 14 instances, their working loops are at least 10x below the average of HCLS recipients. It is well established that qualifying telecommunications investments and expenses are lumpy, possessing significant upfront costs in order to provide service to end-user customers. For example, depreciation expense for a well-established lumpy investment pattern that is spread over a small number of working loops seems to disadvantage extremely small operating carriers.

Secondly, SPTC's experience is compounded with a very large service area. In addition to a small population, a large service territory creates above average and high loop costs. SPTC submits that the Commission should give consideration to carriers with uniform and extremely low density across the entire study area—such areas do not have any lower-cost higher-density areas to offset the costly low-density areas within a study area. This is especially true in the case of SPTC in which there are no cities or towns in the rugged mountainous terrain in which the Company provides service. Rather than apply roughhewn justice to extremely small carriers and force them to rely on a costly, burdensome, and uncertain process for relief, SPTC suggests the Commission allow a certain amount of fixed costs regardless of the size of the carrier; and thereafter, the cost limit should increase on a per-line basis. This well-established slope-intercept approach has been used to address the current corporate operations expense limit used for HCLS.

By taking the narrowly tailored step of controlling for extremely small line counts and large service territories, the Commission can refine its $250 Cap and advance the equities of such

---

[11] *See* USAC, FCC Filings, 2018 Third Quarter Filings, HC05- HCL by State by SAC – column F (reported working lines). SPTC calculated the average using all reporting SACs.

limitation across carriers. This use of working-loop density methodology would be an improvement to the current process and would likely reduce the number of extremely small carriers with large study areas affected by such a limit.

B. Administrative Relief

SPTC has the following recommendations for administrative relief.

(i) *A per-line limit is mooted by other Commission controls*

SPTC notes that the potential for excessive expenses has been addressed by the recent Commission action limiting expenses.[12] These new expense limits moot the purpose of the $250 Cap or any reduction thereof. SPTC submits that these expense controls allow the Commission to achieve its goals and the current per-line limit can be eliminated. Accordingly, to advance the public interest, the Commission should act expediently and eliminate the per-line limit to remove an unnecessary obstacle to the provision of broadband to remote areas.

(ii) *If the per-line limit is retained, the budget control mechanism should be waived*

In the event the per-line limit is retained, SPTC urges the Commission to waive the application of the budget control mechanism for carriers subject to the per-line limit similar to its waiver of this mechanism in the recent grant of Allband Communications Cooperative's ("Allband's") wavier of the $250 Cap.[13] In granting Allband's waiver, the Wireline Competition Bureau found that for Allband, further reductions in support caused by the budget control mechanism "may jeopardize the provision of service and would not be in the public interest."[14] Similarly, imposition of the budget control mechanism and a per-line limit unjustly penalizes all carriers affected by the per-line limit and thus should be waived.

[12] *See, Order on Reconsideration* at paras. 10-61.
[13] *In the Matter of Connect America Fund, Allband Communications Cooperative Petition for Waiver of Certain High-Cost Universal Service Rules*, WC Docket No. 10-90, DA 18-177 (rel. Feb. 22, 2018) at note 48.
[14] *Id.*

(iii) *GDP-CPI Adjustment*

In the event the per-line limit is retained, the per-line monthly limit should be adjusted to account for inflation. A similar treatment has been approved by the Commission for the Operations Expense Limitation discussed in the *Order on Reconsideration*.[15]

V. Conclusion

As demonstrated herein, no justifiable reason exists for lowering the $250 Cap. On the contrary, the Commission should reject such a proposal given the significant negative impact lowering the cap would have on SPTC and other carriers with very small reported working loops that do not have any lower-cost higher-*density* areas to offset the costly low-density areas within a study area. SPTC urges the Commission to take a further step and eliminate the per-line limit to remove an unnecessary obstacle to the provision of broadband to remote areas or, at the very least, implement the other alternatives outlined above.

Respectfully submitted,

May 25, 2018

South Park Telephone Company

/s/ Deborah Rand
Deborah Rand
President
South Park Telephone Company
c/o USConnect Holdings, Inc.
1000 Elm Street
Manchester, NH 03101

[15] *See Order on Reconsideration* at para. 85.