

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

CITY AND COUNTY OF SAN  
FRANCISCO, CALIFORNIA,

Petitioner,

v.

FEDERAL COMMUNICATIONS  
COMMISSION and the UNITED  
STATES OF AMERICA,  
Respondents.

CASE NO. \_\_\_\_\_

**CITY AND COUNTY OF SAN  
FRANCISCO PETITION FOR  
REVIEW OF ORDER OF THE  
FEDERAL COMMUNICATIONS  
COMMISSION**

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Pursuant to 5 U.S.C. § 706, 47 U.S.C. § 402(a), 28 U.S.C. §§ 2342(1) and 2344, Rule 15(a) of the Federal Rules of Appellate Procedure, and Rule 15 of the Rules of this Court, the City and County of San Francisco, California (“San Francisco”) petitions this Court for review of an order of the Federal Communications Commission (“FCC”) entitled *In the Matter of Improving Competitive Broadband Access to Multiple Tenant Environments; Petition for Preemption of Article 52 of the San Francisco Police Code Filed by the Multifamily Broadband Council*, Notice of Proposed Rulemaking and Declaratory Ruling, GN Docket No. 17-142, MB Docket No. 17-91 (July 12, 2019) (“Order”). A copy of the *Order* is attached as Exhibit A to this petition. San Francisco’s petition concerns only the Declaratory Ruling part of the *Order*.

Venue is proper in this Court under 28 U.S.C. § 2343, because San Francisco is located in this judicial circuit.

San Francisco was party to and actively participated in the underlying proceeding before the FCC that led to the *Order*, and is aggrieved by the Declaratory Ruling part of *Order* within the meaning of 28 U.S.C. § 2344.

San Francisco seeks review of the Declaratory Ruling part of the *Order* because it: (i) was issued in excess of the FCC's statutory authority; (ii) is arbitrary and capricious and an abuse of discretion; and (iii) is otherwise contrary to law, including the United States Constitution.

San Francisco respectfully requests that this Court hold unlawful, vacate, enjoin and set aside the Declaratory Ruling part of the *Order*, and grant such other relief as this Court may deem just and proper.

