



Federal Communications Commission
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December 21, 2018

Elisabeth Shumaker, Clerk of Court
U.S. Court of Appeals for the Tenth Circuit
The Byron White U.S. Courthouse
1823 Stout Street
Denver, CO 80257
(303) 844-3157

Re: *Sprint Corp. v. FCC*, No. 18-9563 (and related cases)

Dear Ms. Shumaker:

Pursuant to Federal Rule of Appellate Procedure 28(j), Respondent Federal Communications Commission (FCC) submits this letter to notify the Court of a recent development in support of Respondents' opposition to the San Jose Petitioners' motion to transfer. San Jose insists this case should be transferred to the Ninth Circuit to be consolidated with a case in that circuit, *City of Portland v. FCC*, No. 18-72689 (9th Cir.), in which the petitioner challenges a different FCC order. In opposing that motion, Respondents explained that the FCC "has moved to hold [the *City of Portland* case] in abeyance" pending further administrative proceedings and that "[i]f the Ninth Circuit grants that motion, that would only further diminish any argument for transfer." Resps.' Opp. to Mot. to Transfer at 15 n.10. On December 20, 2018, the Ninth Circuit granted that motion in part by staying all proceedings in that court for 60 days, deferring the filing of the administrative record in that court, and directing the FCC to file a status report in 60 days (which may include a motion for a further stay of those proceedings). A copy of the Ninth Circuit's order is attached.

Respectfully submitted,

/s/ Scott M. Noveck

Scott M. Noveck
*Counsel for Respondent Federal
Communications Commission*

cc: All counsel (per attached service list)

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing document:

1. All required privacy redactions have been made per Tenth Circuit Rule 25.5.
2. If required to file additional hard copies, the ECF submission is an exact copy of those documents.
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/s/ Scott M. Noveck

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Counsel for Respondent

Federal Communications Commission

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on December 21, 2018, I caused the foregoing document to be filed with the Clerk of Court for the United States Court of Appeals for the Tenth Circuit using the electronic CM/ECF system. I further certify that all participants in the case, listed below, are registered CM/ECF users and will be served electronically by the CM/ECF system.

/s/ Scott M. Noveck

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

DEC 20 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF PORTLAND,

Petitioner,

THE WIRELESS ASSOCIATION; et al.,

Intervenors-Pending,

v.

UNITED STATES OF AMERICA and
FEDERAL COMMUNICATIONS
COMMISSION,

Respondents.

No. 18-72689

FCC No. 18-111

Federal Communications Comm

ORDER

Before: LEAVY and HURWITZ, Circuit Judges.

Petitioner's motion to waive the requirements of Federal Rule of Appellate Procedure 15(c)(1-3) and Ninth Circuit Rule 15-1 (Docket Entry No. 2) is granted. *See Sierra Club v. U.S. EPA*, 118 F.3d 1324, 1326 (9th Cir. 1997).

The motions to intervene (Docket Entry Nos. 17, 20, 22) are granted. The Clerk shall update the docket accordingly.

Respondent's motion to hold this petition in abeyance and defer filing the administrative record (Docket Entry No. 16) is granted in part. Proceedings in this

petition are stayed for 60 days. Respondent shall file a status report 60 days after the date of this order, which may include a motion for a further stay of proceedings.