

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CITY OF HUNTINGTON BEACH,

Petitioner,

vs.

FEDERAL COMMUNICATIONS
COMMISSION, and UNITED
STATES OF AMERICA

Respondents.

Petition for Review
Case No. 18-

PETITION FOR REVIEW

Pursuant to 5 U.S.C. §706, 47 U.S.C. §402(a), 28 U.S.C. §§2341(1) and 2344, and Federal Rule of Appellate Procedure 15(a), the City of Huntington Beach, a charter city of the State of California (“City”), hereby petitions this Court for review of the order of the Federal Communications Commission (“FCC”) captioned *Accelerating Wireless and Wireline Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, WT Docket Nos. 17-79, 17-84; FCC 18-133 (the “Order”). The summary of the Order was published in the Federal Register at Vol. 83, No. 199, p. 51867 *et seq.*, on October 15, 2018 (the “Summary”) (“Order”) Copies of the full text of the Order and Summary are attached at Exhibits A and B, respectively.

Venue is proper in this court pursuant to 28 U.S.C. §2343.

The City seeks a determination by this Court that the Order is arbitrary, capricious, and an abuse of discretion within the meaning of the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*; violates the Constitution, including its Contracts Clause; violates federal law, including the Communications Act of 1934, as amended, and FCC regulations promulgated thereunder; is in excess of statutory jurisdiction, authority or limitations, or short of statutory right; without observance of procedure required by law; conflicts with the notice-and-comment rulemaking requirements of 5 U.S.C. § 553; and is otherwise contrary to law. Accordingly, the City respectfully requests that this Court hold unlawful, vacate, enjoin, and set aside the Order, and that it provide such additional relief as may be appropriate.

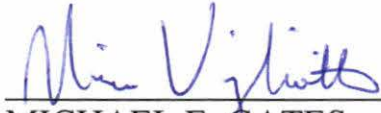
The City is filing this Petition for Review within ten days of publication of the Summary in the Federal Register. (*See* Order ¶ 154; Summary ¶127.) Accordingly, the City hereby requests to be included in the judicial lottery procedure under 28 U.S.C. § 2112(A). (*See also*, 47 C.F.R. §§ 1.13 and 1.4(b)(1).)

Dated: October 25, 2018

Respectfully Submitted,

FOR CITY OF HUNTINGTON BEACH

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