

BEFORE THE UNITED STATES COURT OF APPEALS
FOR
THE DISTRICT OF COLUMBIA CIRCUIT

UNITED STATES TELECOM ASSOCIATION)	Case No. 15-1063
)	
v.)	
)	
FEDERAL COMMUNICATIONS COMMISSION, et al.)	
)	

MOTION TO INTERVENE OF THE NATIONAL ASSOCIATION OF STATE
UTILITY CONSUMER ADVOCATES
IN SUPPORT OF RESPONDENT

The National Association of State Utility Consumer Advocates (“NASUCA”) moves to intervene in this appeal, which implicates the interests of consumers of telecommunications and related services throughout the United States. The appeal challenges the Federal Communications Commission (“FCC”) *Reclassification Order*,¹ which correctly classified broadband Internet access service² as a telecommunications service under 47 U.S.C. § 153(53).³

This motion is made pursuant to FRAP 15(d) and Circuit Rule 15(d).

¹ *Protecting and Promoting the Open Internet*, FCC GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, FCC No. 15-24 (rel. Mar 12, 2015) (“*Reclassification Order*”). Alamo Communications has also filed an appeal from the *Reclassification Order*, in the Fifth Circuit; on March 30, 2015. The Judicial Panel on Multidistrict Litigation directed that the D.C. Circuit would hear the appeal.

² The FCC refers to this service as “BIAS.”

³ The United States Telecom Association (“USTelecom”) filed its “protective” Petition for Review in Case No. 15-1063 within ten days of the release of the order on appeal. USTelecom filed a “supplemental” petition after the order had been published in the Federal Register, on April 13, 2015.

Statement of Interest.

NASUCA is a voluntary association of 44 consumer advocate offices in 41 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA's members are designated by laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions as advocates for utility ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General's office). NASUCA's associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority. Some NASUCA member offices advocate in states whose respective state commissions do not have jurisdiction over certain telecommunications issues.

On behalf of consumers, NASUCA filed numerous comments and, pursuant to FCC rules, made ex parte communications, in the proceedings leading to the *Reclassification Order*.⁴

NASUCA's standing on appeal of FCC orders affecting consumers has been recognized in this circuit and elsewhere. This Circuit heard NASUCA's appeal of FCC unbundling rules in *Covad v. FCC*, 450 F.3d 528 (D.C. Cir., 2006).

⁴ NASUCA Comments (July 15, 2014); NASUCA Reply Comments (September 15, 2014); NASUCA ex parte communication (September 22, 2014); NASUCA ex parte (February 20, 2015).

NASUCA was one of thirty petitioners *In re FCC 11-161*, 753 F.3d 1015 (10th Cir., 2014), filed its own brief and joined in the main briefs, and presented oral argument. The standing recognized in those cases meets any reasonable test for intervention in this appeal.

NASUCA supports the key finding of the *Reclassification Order*, which is the reclassification of broadband Internet access service (“BIAS”) as a Title II service. This proper classification protects consumers from the harms that have been and likely would be inflicted by dominant network owners.

Therefore, NASUCA moves this Court to grant its intervention in this appeal.

Respectfully submitted,

CHARLES A. ACQUARD,
EXECUTIVE DIRECTOR,
NASUCA
8380 Colesville Road, Suite 101
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

/s/ David C. Bergmann
David C. Bergmann
Counsel for NASUCA
3293 Noreen Drive
Columbus OH 43221
(614) 771-5979
David.c.bergmann@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that I caused this Motion of the National Association of State Utility Consumer Advocates to Intervene in Support of Respondent to be served by filing with the CM/ECF system of the United States Court of Appeal for the D.C. Circuit.

/s/ David C. Bergmann_____

David C. Bergmann

Counsel for NASUCA

3293 Noreen Drive

Columbus OH 43221

(614) 771-5979

David.c.bergmann@gmail.com

RULE 261 STATEMENT

The National Association of State Utility Consumer Advocates (NASUCA) is a voluntary association of advocate offices in more than forty states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA's members are designated by the laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General's office). NASUCA's associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority.

NASUCA has no parent company, subsidiary, or affiliate that has issued securities to the public. No publicly traded company owns any equity interest in NASUCA.