

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

Alamo Broadband, Inc.,	)	
Petitioner,	)	
	)	
v.	)	No. 15-60263
	)	
Federal Communications Commission	)	
and United States of America,	)	
Respondents.	)	

**MOTION TO TRANSFER**

The Federal Communications Commission respectfully moves to transfer this petition to the United States Court of Appeals for the District of Columbia Circuit so that the petition can be consolidated with other petitions for review of the same FCC order. Pursuant to Fifth Circuit Rule 27.4, counsel for the Commission contacted counsel for the petitioner, Alamo Broadband, before filing this motion. Counsel for Alamo has represented that Alamo intends to file a response to this motion. Counsel for the Commission also contacted counsel for the United States, the other respondent in this case. We have been authorized to state that the United States does not oppose this motion.

Alamo seeks review of an order in which the FCC adopted new rules to protect the open Internet. *Protecting and Promoting the Open Internet*, FCC 15-24 (released March 12, 2015), 80 Fed. Reg. 19738 (Apr. 13, 2015) (*Order*). On March 23, 2015, two petitions for review of the same order were filed: one in the

D.C. Circuit (by the United States Telecom Association (“USTelecom”)) and another in the Fifth Circuit (by Alamo itself). On the basis of those petitions, the Judicial Panel on Multidistrict Litigation, acting pursuant to 28 U.S.C. § 2112(a)(3), randomly selected the D.C. Circuit as the court in which petitions for review of the order would be consolidated. By order dated March 27, 2015, the Judicial Panel consolidated the USTelecom and Alamo petitions in the D.C. Circuit. It also designated the D.C. Circuit as the court “in which the record is to be filed pursuant to Rules 16 and 17 of the Federal Rules of Appellate Procedure.” A copy of the Judicial Panel’s order is attached.

Because Alamo seeks review of the same FCC order that is being challenged in the cases pending before the D.C. Circuit, and because the Judicial Panel has designated the D.C. Circuit as the court in which the agency record is to be filed, *see* 28 U.S.C. § 2112(a)(3), this Court is statutorily required to transfer this case to

that court pursuant to 28 U.S.C. § 2112(a)(5). Therefore, the FCC respectfully requests that the Court transfer this case to the D.C. Circuit.

Respectfully submitted,

Jonathan B. Sallet  
General Counsel

David M. Gossett  
Deputy General Counsel

Jacob M. Lewis  
Associate General Counsel

/s/James M. Carr

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April 30, 2015

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

IN RE: FEDERAL COMMUNICATIONS COMMISSION,  
IN THE MATTER OF PROTECTING AND PROMOTING  
THE OPEN INTERNET, REPORT AND ORDER ON REMAND,  
DECLARATORY RULING, AND ORDER, FCC 15-24  
(RELEASED MARCH 12, 2015)

MCP No. 128

(SEE ATTACHED SCHEDULE)

**CONSOLIDATION ORDER**

The Federal Communications Commission issued an Order dated March 12, 2015. On March 27, 2015, the Panel received, pursuant to 28 U.S.C. § 2112(a)(3), a notice of multicircuit petitions for review of that order. The notice included petitions for review pending in two circuit courts of appeal as follows: Fifth Circuit Court and District of Columbia Circuit Court.

The Panel has randomly selected the United States Court of Appeals for the District of Columbia Circuit in which to consolidate these petitions for review.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 2112(a)(3), the petitions on the attached schedule are consolidated in the District of Columbia Circuit and that this circuit is designated as the circuit in which the record is to be filed pursuant to Rules 16 and 17 of the Federal Rules of Appellate Procedure.

FOR THE PANEL:



Dana Stewart, Operations Support Specialist  
Random Selector



Quaina Brooks, Case Administrator  
Witness

**IN RE: FEDERAL COMMUNICATIONS COMMISSION,  
IN THE MATTER OF PROTECTING AND PROMOTING  
THE OPEN INTERNET, REPORT AND ORDER ON REMAND,  
DECLARATORY RULING, AND ORDER, FCC 15-24  
(RELEASED MARCH 12, 2015)**

MCP No. 128

**SCHEDULE OF PETITIONS**

**CIRCUIT NO.**

**CASE CAPTION**

DC Circuit, No. 15-1063

United States Telecom Association v. Federal  
Communications Commission, et al.

Fifth Circuit, No. 15-60201

Alamo Broadband Inc. v. Federal Communications  
Commission, et al.

No. 15-60263

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ALAMO BROADBAND INC.,

Petitioner,

v.

FEDERAL COMMUNICATIONS COMMISSION,

AND UNITED STATES OF AMERICA,

Respondents.

CERTIFICATE OF SERVICE

I, James M. Carr, hereby certify that on April 30, 2015, I electronically filed the foregoing Motion to Transfer with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

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*/s/ James M. Carr*