

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

UNITED STATES TELECOM ASSOCIATION,  
*et al.*,

*Petitioners,*

v.

FEDERAL COMMUNICATIONS COMMISSION,  
and UNITED STATES OF AMERICA,

*Respondents.*

No. 15-1063 (and  
consolidated cases)

**CONSENT MOTION TO EXCEED PAGE LIMITS  
FOR MOTION TO STAY**

Petitioners United States Telecom Association, CTIA – The Wireless Association<sup>®</sup>, Wireless Internet Service Providers Association, AT&T Inc., and CenturyLink (collectively, “Petitioners”) respectfully seek leave to file a single, joint motion for stay that would not exceed 35 pages. Pursuant to Circuit Rule 27(h)(2), Petitioners have consulted with counsel for Respondents, who do not oppose this motion so long as they are allowed to file a brief of equal length. Accordingly, Petitioners further request that Respondents be permitted to do so in the event Petitioners’ page limit is expanded. In order to give Respondent FCC adequate time to respond to Petitioners’ pending stay request before that agency, Petitioners will not file a stay request in this Court before May 12, 2015.

Petitioners are challenging the FCC's Order<sup>1</sup> in which the agency departed from its long-held statutory interpretation and reclassified broadband Internet access service as a common-carrier telecommunications service subject to Title II regulation. In order to prevent the significant and irreparable harms that the public and the industry will suffer if the FCC's unlawful Order were allowed to take effect, Petitioners seek to stay the reclassification portion of the Order, as well as the Internet conduct standard adopted in the Order, pending this Court's review.

Petitioners seek leave to file a single, joint stay motion totaling no more than 35 pages, and thus respectfully request an additional 15 pages for such a motion. If each of the five Petitioners filed separately, the combined briefing permitted by Federal Rule of Appellate Procedure 27(d)(2) would total 100 pages. The proposed approach, while involving an expansion of the page limits for a typical motion, would ultimately conserve both the Court's and the parties' resources and serve the interest of judicial efficiency in this multi-party appeal.

The additional pages are necessary in part due to the significance, complexity, and sweeping effect of the 588-paragraph Order under review. *See, e.g.,* Order at 3, *Coalition for Responsible Regulation, Inc. v. EPA*, Nos. 09-1322 *et*

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<sup>1</sup> *See* Report and Order on Remand, Declaratory Ruling, and Order, *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, FCC 15-24 (rel. Mar. 12, 2015) (“Order”).

*al.* (D.C. Cir. Oct. 14, 2010) (granting additional pages for stay requests based on motion citing, among other things, length and complexity of rules under review).

Petitioners need sufficient space to explain, for the benefit of the Court in resolving the stay motion, what the FCC did; why Petitioners are likely to prevail (including a discussion of the relevant precedent from which the FCC has departed); and how the Order will harm Petitioners and the public.

The number and diversity of Petitioners joining the motion also warrants additional pages. For example, Petitioners collectively represent large and small providers that offer both fixed and mobile broadband service. The legal arguments as to fixed and mobile services are, in important respects, distinct; presenting both in a single filing requires additional explanation. The motion also will address certain irreparable harms associated with the Order that are unique to different groups of Petitioners. The proposed page limit will allow Petitioners sufficiently to address all issues affecting the stay question without the need to burden the Court with separate filings. *See, e.g., id.* (granting additional pages for stay requests based on motion citing, among other things, the number of petitioning parties); Order, *Airlines for America v. FAA*, No. 13-1140 (D.C. Cir. Apr. 19, 2013) (granting three jointly moving petitioners leave to file 30-page stay request).

Accordingly, Petitioners believe that compelling reasons justify this request and respectfully ask that the Court grant them permission to file a joint stay motion

not exceeding 35 pages and authorize Respondents to file an opposing brief of equal length.

Dated: May 7, 2015

Respectfully submitted,

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**RULE ECF-3(B) ATTESTATION**

In accordance with D.C. Circuit Rule ECF-3(B), I hereby attest that all other parties on whose behalf this joint motion is submitted concur in the motion's content.

*/s/ Michael K. Kellogg*

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Michael K. Kellogg

May 7, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that, on May 7, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

*/s/ Michael K. Kellogg*

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