

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

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UNITED STATES TELECOM ASSOCIATION,		)	
et al.,		)	
		)	
	<i>Petitioners,</i>	)	
		)	
	v.	)	Case No. 15-1063
		)	(and consolidated
FEDERAL COMMUNICATIONS COMMISSION,		)	cases)
and UNITED STATES OF AMERICA,		)	
		)	
	<i>Respondents.</i>	)	
<hr/>		)	

**MOTION FOR LEAVE TO INTERVENE**

Pursuant to 28 U.S.C. § 2348,<sup>1</sup> Fed. R. App. P. 15(d), and Rule 15(b) of the D.C. Circuit Rules, DISH Network Corporation (“DISH”) hereby moves to intervene in the above-captioned proceeding in support of the Federal Communications Commission (“FCC”) and the United States of America.

Petitioners seek review of the FCC’s order captioned *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, *Report and Order on Remand, Declaratory Ruling, and Order*, FCC 15-24 (rel. Mar. 12, 2015) (“*Order*

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<sup>1</sup> See 28 U.S.C. § 2348 (“[A]ny party in interest in the proceeding before the agency whose interests will be affected if an order of the agency is or is not enjoined, set aside, or suspended [by the court], may appear as [a] part[y] thereto of their own motion and as of right.”).

*on Remand*”). The *Order on Remand* classifies broadband Internet access service (“BIAS”) as a telecommunications service and adopts rules designed to prohibit BIAS providers from interfering with the delivery of traffic over their networks—including through blocking, throttling, and paid prioritization arrangements—pursuant to the FCC’s authority under Titles II and III of the Communications Act and Section 706 of the Telecommunications Act.<sup>2</sup>

DISH is eligible to intervene in this proceeding.<sup>3</sup> The rules adopted by the FCC help protect online video services—including those offered by DISH<sup>4</sup>—from interference by BIAS providers, who often also compete against DISH in offering

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<sup>2</sup> 47 U.S.C. § 1302(a).

<sup>3</sup> Intervention is permitted under Fed. R. App. P. 15(d) for parties “directly affected by” the order at issue. *Yakima Valley Cablevision, Inc. v. FCC*, 794 F.2d 737, 744-45 (D.C. Cir. 1986); *see also New Mexico Dep’t of Human Servs. v. Dep’t of Health & Human Servs. Health Care Fin. Admin.*, 4 F.3d 882, 884 n.2 (10th Cir. 1993) (Rule 15(d) motion granted to intervenors with a “substantial and unique interest in the outcome”); *Bales v. NLRB*, 914 F.2d 92, 94 (6th Cir. 1990) (Rule 15(d) motion granted to one with “substantial interest in the outcome”); *In re Grand Jury Investigation of Cuisinarts, Inc.*, 665 F.2d 24, 28 n.2 (2d Cir. 1981) (Rule 15(d) motion granted to one with “significant interests” in proceedings).

<sup>4</sup> DISH provides two video services exclusively over the Internet—*Sling International* (formerly DISH World) and *Sling TV*. In addition, DISH relies on broadband Internet connections to provide its video-on-demand and DISH Anywhere services.

video services. DISH participated in the proceeding below,<sup>5</sup> and intervened on behalf of the FCC when the FCC's predecessor order was before this Court.<sup>6</sup>

### CONCLUSION

DISH respectfully requests that the Court grant the instant motion to intervene in these proceedings.

Respectfully submitted,

/s/ Pantelis Michalopoulos

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Dated May 12, 2015

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<sup>5</sup> See Letter from Marvin Ammori et al., Internet Freedom Alliance, to Marlene Dortch, FCC, GN Docket No. 14-28 (Nov. 12, 2014).

<sup>6</sup> See Brief of Intervenors Open Internet Coalition, Public Knowledge, Vonage Holdings Corp., and National Association of State Utility Consumer Advocates, *Verizon v. FCC*, 740 F.3d 62 (D.C. Cir. 2013) (No. 11-1355); Order, *Verizon v. FCC*, 740 F.3d 62 (D.C. Cir. 2013) (No. 11-1355) (granting motion for leave to intervene by Open Internet Coalition and others).

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**CERTIFICATE AS TO PARTIES**

Pursuant to D.C. Circuit Rule 27(a)(4) and D.C. Circuit Rule 28(a)(1)(A), DISH Network Corporation (“DISH”) certifies the following:

In Case No. 15-1063 and consolidated cases, the Petitioners are the United States Telecom Association, Alamo Broadband Inc., AT&T Inc., the American Cable Association, CTIA – The Wireless Association, CenturyLink, the National Cable and Telecommunications Association, the Wireless Internet Service Providers Association, and Daniel Berninger. The Respondents are the Federal Communications Commission (“FCC”) and the United States of America. The intervenors for Respondents are Public Knowledge and the National Association of State Utility Consumer Advocates. No amici have appeared before this court at

this time. DISH seeks leave to appear in this matter as an intervenor in support of Respondents.

Respectfully submitted,

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**RULE 26.1 DISCLOSURE STATEMENT**

Pursuant to Fed. R. App. P. 26.1 and D.C. Circuit Court Rule 26.1, DISH Network Corporation (“DISH”) submits this disclosure of interests. DISH has issued publicly traded equity. Based on reports filed publicly with the Securities and Exchange Commission, no publicly traded company owns 10% or more of DISH except Putnam Investments LLC, which owns 16.1% of the publicly traded equity of DISH. DISH Network L.L.C. is a wholly owned subsidiary of DISH DBS Corporation, a corporation with publicly traded debt. DISH DBS Corporation is a wholly owned subsidiary of DISH Orbital Corporation. DISH Orbital Corporation is a wholly owned subsidiary of DISH. DISH Network L.L.C. serves over 14 million satellite TV customers.

Respectfully submitted,

/s/ Pantelis Michalopoulos

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Dated May 12, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of May, 2015, I caused true and correct copies of the foregoing Motion to Intervene to be filed electronically with the Clerk of the Court using the Case Management and Electronic Case Files (“CM/ECF”) system for the D.C. Circuit. Participants in the case will be served by the CM/ECF system or by U.S. Mail.

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