

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

---

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>	)	
	)	

---

**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, Level 3 Communications, LLC (“Level 3”) hereby moves to intervene in the above-captioned proceeding in support of the Federal Communications Commission (“FCC”) and the United States of America.<sup>2</sup>

Petitioners seek review of the FCC’s order captioned *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, *Report and Order on*

<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 parties thereto of their own motion and as of right.”).

<sup>2</sup> Pursuant to Circuit Rule 15(b), this motion will be deemed an intervention motion in all appeals that have been filed and that will be filed in this Circuit involving the same underlying Commission order.

*Remand, Declaratory Ruling, and Order*, FCC 15-24 (rel. Mar. 12, 2015) (“*Order on Remand*”). The *Order on Remand* classifies broadband Internet access services (“BIAS”) as telecommunications services and adopts carefully tailored rules designed to prohibit BIAS providers from interfering with the delivery of traffic over their telecommunications networks—including through blocking, throttling, and paid prioritization arrangements—pursuant to its authority under Titles II and III of the Communications Act and Section 706 of the Telecommunications Act.<sup>3</sup>

Level 3 actively participated in the FCC proceeding below and is directly affected by the Order.<sup>4</sup> As a result, Level 3 is a “party in interest in the proceeding” and eligible to intervene under 28 U.S.C. § 2348.<sup>5</sup>

---

<sup>3</sup> 47 U.S.C. § 1302(a).

<sup>4</sup> The FCC’s new rules provide for the first time an avenue for transit providers, such as Level 3, to file complaints against BIAS providers for unjust or unreasonable interconnection practices.

<sup>5</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).

## CONCLUSION

Level 3 respectfully requests that the Court grant the instant motion to intervene in these proceedings.

Respectfully submitted,

/s/ Markham C. Erickson

Markham C. Erickson  
Andrew W. Guhr  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

*Counsel for Level 3 Communications, LLC*

Dated May 12, 2015

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

<hr/>		)	
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/>		)	

**CERTIFICATE AS TO PARTIES**

Pursuant to D.C. Circuit Rule 27(a)(4) and D.C. Circuit Rule 28(a)(1)(A), Level 3 Communications, LLC (“Level 3”) certifies the following:

In Case No. 15-1063 and consolidated cases, the Petitioners are United States Telecom Association, Alamo Broadband Inc., AT&T Inc., American Cable Association, CTIA – The Wireless Association, CenturyLink, National Cable and Telecommunications Association, 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.

Level 3 seeks leave to appear in this matter as an Intervenor in support of Respondents.

Respectfully submitted,

/s/ Markham C. Erickson

Markham C. Erickson  
Andrew W. Guhr  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

*Counsel for Level 3 Communications, LLC*

Dated May 12, 2015

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

<hr/>		)	
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/>		)	

**RULE 26.1 DISCLOSURE STATEMENT**

Pursuant to Fed. R. App. P. 26.1 and D.C. Circuit Court Rule 26.1, Level 3 Communications, LLC (“Level 3”) submits this disclosure of interests. Insofar as relevant to the litigation, Level 3 is a Tier 1 Internet Service Provider, providing Internet services, including content-delivery and transit services, to customers in the United States and globally. Level 3 is a wholly owned subsidiary of Level 3 Financing, Inc., which is a wholly owned subsidiary of Level 3 Communications, Inc., a publicly traded company incorporated in the State of Delaware. No publicly traded company owns 10% or more of Level 3 Communications, Inc.

Respectfully submitted,

/s/ Markham C. Erickson

Markham C. Erickson  
Andrew W. Guhr  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

*Counsel for Level 3 Communications, LLC*

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.

James M. Carr  
David Morris Gossett  
Jacob M. Lewis  
Richard Kiser Welch  
FEDERAL COMMUNICATIONS  
COMMISSION  
Room 8-A741  
445 12th Street, S.W.  
Washington, D.C. 20554  
(202) 418-1700

*Counsel for Respondent Federal  
Communications Commission*

Helgi C. Walker  
Michael R. Huston  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 887-3599

*Counsel for Petitioner CTIA – The  
Wireless Association*

Nickolai Gilford Levin  
Kristen Ceara Limarzi  
Robert J. Wiggers  
UNITED STATES  
DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
(202) 514-2001

*Counsel for Respondent United  
States of America*

Brett A. Shumate  
Andrew G. McBride  
Eve Klindera Reed  
WILEY REIN LLP  
1776 K Street, N.W.  
Washington, D.C. 20006  
(202) 719-7000

*Counsel for Petitioner Alamo  
Broadband Inc.*



Peter D. Keisler  
James P. Young  
C. Frederick Beckner III  
SIDLEY AUSTIN LLP  
1501 K Street, N.W.  
Washington, D.C. 20005  
(202) 736-8000

Wayne Watts  
David R. McAtee II  
Lori A. Fink  
Gary L. Phillips  
Christopher M. Heimann  
AT&T SERVICES, INC.  
1120 20th Street, N.W., Suite 1000  
Washington, D.C. 20036  
(202) 457-3055

*Counsel for Petitioner AT&T Inc.*

David H. Solomon  
Russell P. Hanser  
WILKINSON BARKER KNAUER  
LLP  
2300 N Street, N.W., Suite 700  
Washington, D.C. 20037  
(202) 783-4141

Timothy M. Boucher  
CENTURYLINK  
1099 New York Avenue, N.W.,  
Suite 250  
Washington, D.C. 20001  
(303) 992-5751

*Counsel for Petitioner CenturyLink*

Kathleen M. Sullivan  
QUINN, EMANUEL, URQUHART &  
SULLIVAN LLP  
51 Madison Avenue, 22<sup>nd</sup> Floor  
New York, NY 10010  
(212) 849-7000

Jonathan Banks  
UNITED STATES TELECOM  
ASSOCIATION  
607 14<sup>th</sup> Street, N.W., Suite 400  
Washington, D.C. 20005  
(202) 326-7272

*Counsel for Petitioner USTelecom*

Jeffrey A. Lamken  
MOLO LAMKEN LLP  
The Watergate, Suite 660  
600 New Hampshire Avenue, N.W.  
Washington, D.C. 20037  
(202) 556-2000

Ross J. Leiberman  
AMERICAN CABLE ASSOCIATION  
2415 39<sup>th</sup> Place, N.W.  
Washington, D.C. 20007  
(202) 494-5661

*Counsel for Petitioner  
American Cable Association*

Miguel A. Estrada  
Theodore B. Olson  
Jonathan C. Bond  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 955-8500

Rick C. Chessen  
Neal M. Goldberg  
Michael S. Schooler  
Steven F. Morris  
NATIONAL CABLE &  
TELECOMMUNICATIONS  
ASSOCIATION  
25 Massachusetts Avenue, N.W.  
Suite 100  
Washington, D.C. 20001  
(202) 222-2445

Matthew A. Brill  
Matthew T. Murchison  
Jonathan Y. Ellis  
LATHAM & WATKINS LLP  
555 Eleventh Street, N.W.  
Suite 1000  
Washington, D.C. 20004  
(202) 637-2200

*Counsel for Petitioner National Cable  
& Telecommunications Association*

Michael K. Kellogg  
Scott H. Angstreich  
KELLOGG, HUBER, HANSEN,  
TODD, EVANS & FIGEL, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, D.C. 20036

*Counsel for Petitioners USTelecom,  
CTIA, and AT&T*

Stephen E. Coran  
Dennis P. Corbett  
LERMAN SENTER PLLC  
2000 K Street, N.W., Suite 600  
Washington, D.C. 20006  
(202) 429-8970

*Counsel for Petitioner Wireless Internet  
Service Providers Association*

Richard E. Wiley  
Bennett L. Ross  
Brett A. Shumate  
WILEY REIN LLP  
1776 K Street, N.W.  
Washington, D.C. 20006  
(202) 719-7000

*Counsel for Petitioner Daniel Berninger*

Harold Jay Feld  
PUBLIC KNOWLEDGE  
1818 N Street, N.W., Suite 410  
Washington, D.C. 20036  
(202) 861-0020

*Counsel for Intervenor Public  
Knowledge*

David Bergmann  
LAW OFFICE OF DAVID C.  
BERGMANN  
3293 Noreen Drive  
Columbus, OH 43221  
(614) 771-5979

*Counsel for Intervenor National  
Association of State Utility Consumer  
Advocates*

Sincerely,

/s/ Andrew W. Guhr  
Andrew W. Guhr  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
(202) 429-1359