

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

UNITED STATES TELECOM  
ASSOCIATION,

Petitioner,

v.

FEDERAL COMMUNICATIONS  
COMMISSION and UNITED STATES  
OF AMERICA,

Respondents.

Case No. 15-1063 (and  
consolidated cases)

**MOTION FOR LEAVE TO INTERVENE**

Demand Progress (“Demand Progress”) moves to intervene as of right in these consolidated cases<sup>1</sup> in support of Respondents Federal Communications Commission (the “FCC”) and the United States of America pursuant to 47 U.S.C. § 402(e), 28 U.S.C. § 2348, and Rule 15(d) of the Federal Rules of Appellate Procedure. As set forth below, Demand Progress is entitled to intervene as of right because it would be directly affected by any reversal or modification of the FCC order under review.

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<sup>1</sup> Pursuant to D.C. Circuit Rule 15(b), a motion to intervene in a case concerning “direct review of an agency action will be deemed a motion to intervene in all cases before this court involving the same agency action or order, including later filed cases...” Accordingly, Demand Progress’s motion to intervene shall serve as a motion to intervene in the consolidated cases.

The FCC's Petitioners in these consolidated cases—broadband Internet access carriers and their trade associations—challenge the FCC's final order. *Protecting and Promoting the Open Internet* (the "Order"), 80 Fed. Reg. 19,737 (Apr. 13, 2015). In that Order, the FCC established rules to protect and promote the open Internet by, among other things, prohibiting carriers from blocking, throttling, and charging "prioritization" fees for Internet traffic passing through their networks. *See id.* at 19,738.

Demand Progress has a direct interest in these proceedings. Demand Progress is a grassroots organization fighting for the rights and freedoms needed for a modern democracy. Demand Progress works to win progressive policy changes for ordinary people through organizing and grassroots lobbying, focusing on issues of civil liberties, civil rights, Internet freedom and government reform.

Over the years, Demand Progress has helped its activists engage on a number of important political issues, including Net Neutrality. Recognizing that democracy and free speech depend upon an open Internet, Demand Progress has been a leader in the fight to defend Net Neutrality. On behalf of itself and its activists, Demand Progress has worked tirelessly in support of FCC reclassification of broadband under Title II to protect citizens. Demand Progress has met *ex parte* at the FCC on this issue and was critical in ensuing a record number of public comments in support of a true open Internet were submitted in the Net Neutrality

docket. Should the Order be modified or vacated, the essence of Demand Progress's work would be threatened. Allowing businesses to be the gatekeepers of content without any regulation or oversight would destroy our ability to freely and widely share political and charitable speech.

As a leading grassroots organization, Demand Progress also wants to ensure that consumers are afforded equal access to the Internet in a manner that does not unduly impair their right to free speech. But unlike the Petitioner trade associations and the businesses that support them, Demand Progress believes that the Order is the best way to secure those interests. Ensuring that Demand Progress members have open access to the Internet is simply democratic. Indeed, free speech would suffer without the Order because—as the FCC rightly concluded and this Court previously recognized—permitting broadband providers to engage in blocking or discrimination would lead to unequal access to the Internet. Therefore, if other, larger, broadband Internet access providers engage in practices that harm the “virtuous cycle” of free speech, access to the tools of democracy that Demand Progress provides its members with would decrease significantly. Therefore, Demand Progress and its members would be adversely affected if the Order were vacated or modified in a way that could hamper their freedom to communicate with other activists and elected officials.

Demand Progress's motion is timely as it is filed within 30 days after the

most recent timely-filed petition in these consolidated appeals.<sup>2</sup> *See* 47 U.S.C. § 402(e); D.C. Circuit R. 15(b).

Demand Progress respectfully requests that this Court grant its motion for leave to intervene in these appeals in support of Respondents Federal Communications Commission and the United States of America.

Respectfully submitted,

/s/ Marvin Ammori  
1718 M St. NW #1990  
Washington, DC 20036  
marvin@ammorigroup.com  
(202) 505-3680

ATTORNEY FOR DEMAND  
PROGRESS

May 13, 2015

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<sup>2</sup> The last-filed petition (No. 15-1128) is dated May 7, 2015.

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**CERTIFICATE AS TO THE PARTIES**

Pursuant to D.C. Circuit Rule 28(a)(1)(A), Demand Progress (“Demand Progress”) hereby certifies the following:

In Case No. 15-1063, the Petitioner is United States Telecom Association and the Respondents are the Federal Communications Commission (“FCC”) and the United States of America. Movant Demand Progress seeks leave to appear in this matter as an Intervenor in support of Respondents FCC and United States of America. No amici have appeared before this Court.

In Case No. 15-1078, the Petitioner is Alamo Broadband Inc. The Respondents are the FCC and the United States of America.

In Case No. 15-1086, the Petitioner is the United States Telecom Association. The Respondents are the FCC and the United States of America.

In Case No. 15-1090, the Petitioner is the National Cable & Telecommunications Association. The Respondents are the FCC and the United States of America.

In Case No. 15-1091, the Petitioner is CTIA -The Wireless Association. The Respondents are the FCC and the United States of America.

In Case No. 15-1092, the Petitioner is AT&T Inc. The Respondents are the FCC and the United States of America.

In Case No. 15-1095, the Petitioner is the American Cable Association. The Respondents are the FCC and the United States of America.

In Case No. 15-1099, the Petitioner is CenturyLink. The Respondents are the FCC and the United States of America.

In Case No. 15-1117, the Petitioner is the Wireless Internet Service Providers Association. The Respondents are the FCC and the United States of America.

In Case No. 15-1128, the Petitioner is Daniel Berninger. The Respondents are the FCC and the United States of America.

Respectfully submitted,

/s/ Marvin Ammori

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AMMORI GROUP

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Washington, DC 20036  
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**CORPORATE DISCLOSURE STATEMENT**

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and D.C. Circuit Rules 26.1, Demand Progress (“Demand Progress”) submits the following corporate disclosure statement.

Demand Progress is a non-profit corporation. It has no parent corporation. No publicly held company has any ownership interest in Demand Progress.

Respectfully submitted,

/s/ Marvin Ammori

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Washington, DC 20036  
marvin@ammorigroup.com  
(202) 505-3680



ATTORNEY FOR DEMAND PROGRESS

May 13, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that, on behalf of Demand Progress, on May 13, 2015, I electronically filed the foregoing Motion for Leave to Intervene with the Clerk of the Court for the United States Court of Appeals for the D.C. Circuit by using the CM/ECF system. I certify further that I have directed that copies of the foregoing Motion for Leave to Intervene be served on all counsel by electronic service via CM/ECF.

/s/Andrew Jay Schwartzman  
Andrew Jay Schwartzman