

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

AT&T INC.,

*Petitioner,*

v.

FEDERAL COMMUNICATIONS COMMISSION  
and UNITED STATES OF AMERICA,

*Respondents.*

No. 15-1092  
(consolidated with Nos.  
15-1063 *et al.*)

**STATEMENT OF ISSUES TO BE RAISED**

In accordance with this Court's April 15, 2015 Order, petitioner AT&T Inc. submits this nonbinding statement of issues to be raised in this case.

In the order under review,<sup>1</sup> the Federal Communications Commission ("FCC") reversed decades of precedent and reclassified broadband Internet access services as telecommunications services subject to common carrier regulation under Title II of the Communications Act of 1934; asserted authority for the first time to regulate the terms on which broadband Internet access service providers interconnect with other Internet Protocol networks; reclassified mobile broadband Internet access as commercial mobile radio service or its functional equivalent and,

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<sup>1</sup> 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).

therefore, as a service subject to common carrier regulation under Title II of the Communication Act of 1934; and adopted a series of prophylactic rules, including an amorphous Internet “conduct standard.”

The issues to be raised are:

1. Whether the FCC’s reclassification of broadband Internet access service as a telecommunications service subject to common carrier regulation under Title II violates the terms of the Communications Act of 1934, as amended, and the First and Fifth Amendments to the U.S. Constitution; or is based on an unreasonable interpretation of the statute, is arbitrary and capricious, or is otherwise contrary to law.

2. Whether the FCC’s assertion of authority over the terms on which broadband Internet access providers interconnect with other Internet Protocol networks, and its classification of that interconnection as a common carrier telecommunications service under Title II violates the terms of the Communications Act of 1934, as amended, and the First and Fifth Amendments to the U.S. Constitution; or is based on an unreasonable interpretation of the statute, is arbitrary and capricious, or is otherwise contrary to law.

3. Whether the FCC’s reversal of its prior classification of mobile broadband Internet access as private mobile radio service exempt from common carrier regulation, violates the terms of the Communications Act of 1934, as

amended, and the First and Fifth Amendments to the U.S. Constitution; or is based on an unreasonable interpretation of the statute, is arbitrary and capricious, or is otherwise contrary to law, including but not limited to violating the notice and comment provisions of the Administrative Procedure Act.

4. Whether the specific rules the FCC adopted, including but not limited to its Internet conduct standard, exceed the agency's authority, are arbitrary and capricious, or otherwise contrary to law.

5. Whether the FCC, in classifying both broadband Internet access service and IP interconnection as telecommunications services subject to common carrier regulation under Title II, and in adopting specific rules pursuant to its assertions of authority over broadband Internet access service providers, violated the notice and comment provisions of the Administrative Procedure Act.

Respectfully submitted,

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  
David L. Lawson  
Gary L. Phillips  
Christopher M. Heimann  
AT&T SERVICES, INC.  
1120 20th Street, N.W., Suite 1000  
Washington, D.C. 20036  
(202) 457-3055

/s/ Michael K. Kellogg  
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  
(202) 326-7900

*Counsel for Petitioner AT&T Inc.*

May 15, 2015

**CERTIFICATE OF SERVICE**

I hereby certify that, on May 15, 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*

Michael K. Kellogg