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United States Court of Appeals

District of Columbia Circuit

NOV 17 2000

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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

DOCKETING STATEMENT

Administrative Agency Review Proceedings (To be completed by appellant/petitioner)

- 1. CASE NO. 00-1428 2. DATE DOCKETED 10/06/00
3. CASE NAME United States Telecom Association v. Federal Communications Commission
4. TYPE OF CASE: [X] Review [ ] Appeal [ ] Enforcement [ ] Complaint [ ] Tax Court
5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? YES [ ] NO [X]
6. CASE INFORMATION:
a. Identify agency whose order is to be reviewed: Federal Communications Commission
b. Give agency docket or order number(s): CC Docket No. 96-45; FCC 00-248
c. Give date(s) of order(s): adopted 7/11/00; released 8/10/00
d. Has a request for rehearing or reconsideration been filed at the agency? YES [X] NO [ ]
e. Are any other cases involving the same underlying agency order pending in this Court or in any other Court? YES [ ] NO [X]
f. Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues as the instant case presents? YES [ ] NO [X]
g. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative dispute resolution? YES [ ] NO [X]

Signature: William F. Maher, Jr. Date: 11/13/00
Name of Party (Print): United States Telecom Association
Name of Counsel for Appellant/Petitioner (Print): William F. Maher, Jr. Firm: Halprin, Temple, Goodman & Maher
Address: 555 12th Street, N.W., Suite 950 North Washington, DC 20004
Phone: 202/371-9100 Fax No.: 202/371-1497

ATTACH A CERTIFICATE OF SERVICE

Note: If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 10 days by letter, with copies to all other parties, specifically referring to the challenged statement. An original and three copies of such letter should be submitted.

**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. 00-1428

**STATEMENT OF ISSUES TO BE RAISED ON APPEAL**

In the declaratory ruling under review, the Federal Communications Commission (the “FCC”) held that state public utilities commissions may not interpret section 214(e)(1) of the Communications Act of 1934, as amended (the “Act”) to require a common carrier to furnish supported services throughout a service area prior to being designated as an eligible telecommunication carrier (“ETC”). Under the Act, a carrier must be designated an ETC in order to receive federal universal service support. The FCC decided that such an interpretation of section 214(e)(1) “prohibits or has the effect of prohibiting the ability of competitive carriers to provide telecommunications service, in violation of section 253(a) of the Act.” *See Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, Declaratory Ruling, FCC 00-248 (rel. Aug. 10, 2000) para. 2.

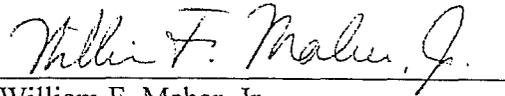
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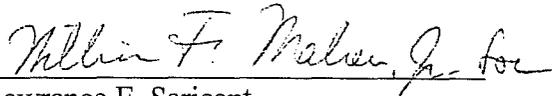
The issue here is whether the Commission's declaratory ruling regarding sections 214(e)(1) 253(a) of the Act was arbitrary, capricious, an abuse of discretion, and without observance of procedure required by law.

Respectfully submitted,



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*Counsel for Petitioner*  
*United States Telecom Association*

Dated: November 13, 2000

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

UNITED STATES TELECOM ASSOCIATION	)	
	)	
Petitioner,	)	
	)	Case No. 00-1428
v.	)	
	)	
FEDERAL COMMUNICATIONS COMMISSION,	)	
and UNITED STATES OF AMERICA,	)	
	)	
Respondents.	)	
	)	

**CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES**

Pursuant to the Court's October 11, 2000 order and Circuit Rule 28(a)(1), United States Telecom Association makes the following certification:

**(A) Parties and Amici**

The following were parties to the proceeding before the Federal Communications Commission resulting in the ruling under review:

- Association for Local Telecommunications Services
- AT&T Corp.
- BellSouth Corporation
- Cellular Telecommunications Industry Association
- Coalition of Rural Telephone Companies (consisting of the National Telephone Cooperative Association ("NTCA"), National Rural Telecom Association ("NRTA"), and Organization for the Promotion and Advancement of Small Telecommunications Companies ("OPASTCO"))
- Competitive Universal Service Coalition
- GTE Service Corporation
- Minnesota Department of Public Service/Department of Commerce
- Montana Telecommunications Association
- Personal Communication Industry Association
- Qwest Communications International, Inc. (formerly U S West Communications, Inc.)
- Rural Cellular Corporation
- Rural Telephone Coalition (NTCA, NRTA, OPASTCO)
- South Dakota Independent Telephone Coalition, Inc.

South Dakota Public Utilities Commission  
United States Cellular Corporation  
United States Telecom Association  
Washington Utilities & Transportation Commission  
Western Wireless Corporation

The named parties in this action are as follows:

United States Telecom Association  
Federal Communications Commission  
United States of America

To date, the following parties have moved to intervene in this action:

Cellular Telecommunications Industry Association  
Dobson Communications Corporation  
National Association of Regulatory Utility Commissioners  
Project Telephone Company  
South Dakota Independent Telephone Coalition, Inc.  
South Dakota Public Utilities Commission  
Western Wireless Corporation

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Rule 26.1 of the Rules of the United States Court of Appeals for the District of Columbia Circuit, Petitioner United States Telecom Association submits the following corporate disclosure statement:

The United States Telecom Association (“USTA”) was known as the United States Telephone Association until it changed its name in October, 1999. USTA is a not-for-profit trade association representing the interests of more than 1200 local exchange and exchange access providers (local exchange carriers or “LECs”) worldwide. These companies provide a full array of voice, data, and video services over wireline and wireless networks. USTA also has associate members that include consultants, manufacturers, banks and investors, and other parties with interests in the LEC industry. USTA has no parent companies, subsidiaries, or affiliates for which disclosure is required.

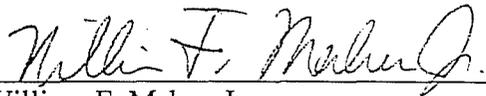
**(B) Ruling Under Review**

This petition asks for review of a declaratory ruling issued by the Federal Communications Commission in CC Docket No. 96-45, *Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*. The declaratory ruling was released on August 10, 2000. The declaratory ruling's release number is FCC 00-248. Notice and a summary of the declaratory ruling were published in the Federal Register at 65 Fed. Reg. 54524 (Sept. 8, 2000). To date, the declaratory ruling has not been published in the Federal Communications Record.

**(C) Related Cases**

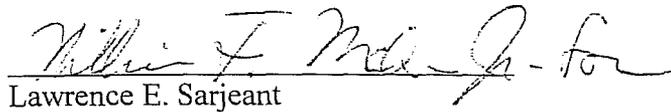
The order under review has not previously been before this Court or any other. The United States Telecom Association is unaware of any petitions to review the order that have been filed in any other court.

Respectfully submitted,



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Dated: November 13, 2000

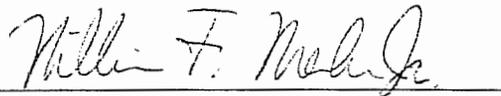
**IN THE  
UNITED STATES COURT OF APPEALS  
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UNITED STATES TELECOM ASSOCIATION	)	
	)	
Petitioner,	)	
	)	Case No. 00-1428
v.	)	
	)	
FEDERAL COMMUNICATIONS COMMISSION,	)	
and UNITED STATES OF AMERICA,	)	
	)	
Respondents.	)	
	)	

**STATEMENT REGARDING THE USE OF A DEFERRED APPENDIX**

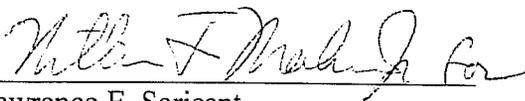
Pursuant to the Court's October 11, 2000 order, United States Telecom Association states that it plans to use a deferred appendix pursuant to Rule 30(c) of the Federal Rules of Appellate Procedure.

Respectfully submitted,



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Dated: November 13, 2000

## CERTIFICATE OF SERVICE

I, William F. Maher, Jr., a member of the Bar of this Court, hereby certify that on this 13th day of November, 2000, I have caused copies of the foregoing Docketing Statement, Statement of Issues To Be Raised On Appeal, Certificate As To Parties, Rulings, and Related Cases, and Statement Regarding The Use of a Deferred Appendix, dated November 13, 2000, to be served by messenger upon the following indicated by an asterisk, and by first-class mail, postage prepaid, on the others listed below:

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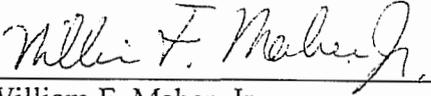
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