

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

COUNTY OF SANTA CLARA and SANTA
CLARA COUNTY CENTRAL FIRE
PROTECTION DISTRICT,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION
and UNITED STATES OF AMERICA,

Respondents.

No. 18-70506

MOTION OF USTELECOM FOR LEAVE TO INTERVENE

Pursuant to 47 U.S.C. § 402(e), 28 U.S.C. § 2348, and Rule 15(d) of the Federal Rules of Appellate Procedure, USTelecom – The Broadband Association (“USTelecom”) hereby moves for leave to intervene in support of Respondents as a matter of right in the above-captioned case and in any other cases with which this case may be consolidated. Petitioners and Respondents have authorized USTelecom to state that they do not oppose this motion.

Petitioners seek review of the following decision of the Federal Communications Commission (“FCC”): Declaratory Ruling, Report and Order, and Order, *Restoring Internet Freedom*, WC Docket No. 17-108, FCC 17-166 (rel. Jan. 4, 2018) (“*Order*”).

USTelecom is entitled to intervene as an “interested party” under 47 U.S.C. § 402(e), because its interests — along with the interests of its members — will be substantially affected by this Court’s review of the *Order*. *See also* 28 U.S.C. § 2348 (providing that “associations . . . whose interests are affected by the order of the agency[] may intervene in any proceeding to review the order”). USTelecom is further entitled to intervene because it and its members actively participated in the agency proceedings below. *See, e.g., Alabama Power Co. v. FCC*, 311 F.3d 1357, 1366 (11th Cir. 2002) (stating that, under 28 U.S.C. § 2348, “parties to the agency proceeding can intervene as of right”).

Accordingly, USTelecom respectfully requests that its motion to intervene in support of Respondents be granted.

Respectfully submitted,

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March 15, 2018

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, USTelecom – The Broadband Association (“USTelecom”) respectfully submits the following corporate disclosure statement.

USTelecom is a non-profit association of service providers and suppliers for the telecommunications industry. Its members provide broadband services, including retail broadband Internet access and new Internet Protocol-based services over fiber-rich networks, to millions of consumers and businesses across the country. USTelecom has no parent corporation, and no publicly held corporation owns 10 percent or more of its stock.

Respectfully submitted,

/s/ Michael K. Kellogg

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March 15, 2018

9th Circuit Case Number(s)

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CERTIFICATE OF SERVICE

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