

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

BRAND X INTERNET SERVICES,  
*Petitioner,*

v.

FEDERAL COMMUNICATIONS  
COMMISSION,  
*Respondent.*

No. 02-70518  
FCC No.  
FCC-Act 2-77

EARTHLINK, INC.,  
*Petitioner,*

SBC COMMUNICATIONS, INC.,  
*Intervenor,*

v.

FEDERAL COMMUNICATIONS  
COMMISSION,  
*Respondent.*

No. 02-70684  
FCC No.  
FCC-02-77

VERIZON TELEPHONE COMPANIES,  
Verizon Internet Solutions d/b/a  
Verizon.Net,  
*Petitioners,*

SBC COMMUNICATIONS, INC.,  
*Intervenor,*

v.

FEDERAL COMMUNICATIONS  
COMMISSION,  
*Respondent.*

No. 02-70685  
FCC No.  
FCC-02-1100

CONSUMER FEDERATION OF AMERICA;  
CONSUMERS UNION; CENTER FOR  
DIGITAL DEMOCRACY,

*Petitioners,*

v.

FEDERAL COMMUNICATIONS  
COMMISSION,

*Respondent.*

No. 02-70686

FCC No.  
FCC-02-77

PEOPLE OF THE STATE OF  
CALIFORNIA EX REL. BILL LOCKYER;  
PUBLIC UTILITIES  
COMMISSION OF THE STATE OF  
CALIFORNIA,

*Petitioners,*

v.

FEDERAL COMMUNICATIONS  
COMMISSION; UNITED STATES OF  
AMERICA,

*Respondents.*

No. 02-70879

FCC Nos.  
GN-00185  
CS-02-52

NATIONAL LEAGUE OF CITIES;  
NATIONAL ASSOCIATION OF  
TELECOMMUNICATIONS OFFICERS AND  
ADVISORS; UNITED STATES  
CONFERENCE OF MAYORS; NATIONAL  
ASSOCIATION OF COUNTIES; TEXAS  
COALITION OF CITIES FOR UTILITY  
ISSUES,

*Petitioners,*

v.

FEDERAL COMMUNICATIONS  
COMMISSION,

*Respondent.*

No. 02-71425

FCC Nos.  
GN-00-185  
CS-02-52

CONESTOGA TOWNSHIP; PROVIDENCE  
TOWNSHIP; MARTIC TOWNSHIP;  
BUCKINGHAM TOWNSHIP; EAST  
HEMPFIELD TOWNSHIP,

*Petitioners,*

v.

FEDERAL COMMUNICATIONS  
COMMISSION, and UNITED STATES OF  
AMERICA,

*Respondents.*

No. 02-72251

FCC No.  
FCC-02-52  
ORDER

On Remand from the Supreme Court of the United States

Filed January 23, 2006

Before: Richard D. Cudahy,\* Diarmuid F. O'Scannlain, and  
Sidney R. Thomas, Circuit Judges.

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**ORDER**

In accordance with the Supreme Court's decision in *National Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 125 S. Ct. 2688 (2005), the Federal Communications Commission's declaratory ruling is **AFFIRMED**.

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\*The Honorable Richard D. Cudahy, Senior United States Circuit Judge for the Seventh Circuit, sitting by designation.







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