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MEMORANDUM

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE GENERAL COUNSEL  
1000 M STREET, N.W.  
WASHINGTON, D.C. 20541

TO: Chief, Dockets Branch

FROM: Associate General Counsel, Litigation Division

SUBJECT: Capital Network System, Inc. v. FCC & USA, No. 92-1627.  
Filing of a Petition for Review in the United States  
Court of Appeals for the District of Columbia Circuit.

DATE: December 8, 1992

Docket No(s). CC 92-77

File No(s).

This is to advise you that on December 3, 1992, Capital Network System, Inc., filed with the United States Court of Appeals for the District of Columbia Circuit a:

- Section 402(a) Petition for Review
- Section 402(b) Notice of Appeal

of the following FCC decision: In the Matter of Billed Party Preference for 0+ InterLATA Calls, FCC 92-465, released November 6, 1992. Petitioner challenge the FCC's decision that rejected the 0+ public domain proposal that required interexchange carriers to share with other interexchange carriers billing and validation data for any calling card usable with 0+ access.

Due to a change in the Communications Act, it will not be necessary to notify the parties of this filing.

The Court has docketed this case as No. 92-1627 and the attorney assigned to handle the litigation of this case is John E. Ingle.

Daniel M. Armstrong

cc: General Counsel  
Office of Public Affairs  
Shepard's Citations

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

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CAPITAL NETWORK SYSTEM, INC. )  
)  
Petitioner, )  
)  
v. )  
)  
FEDERAL COMMUNICATIONS COMMISSION )  
and UNITED STATES OF AMERICA, )  
)  
Respondents. )  
\_\_\_\_\_ )

No. 92-1627  
Filed: 12/3/92

PETITION FOR REVIEW

Capital Network System, Inc. ("CNS"), pursuant to Section 402(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 402(a); Section 704 of the Administrative Procedure Act, 5 U.S.C. § 704; 28 U.S.C. §§ 2342 et seq.; and Rule 15 of the Federal Rules of Appellate Procedure, hereby petitions for review of the Federal Communications Commission's ("FCC") rejection of the "0+ public domain" proposal contained in the Report and Order issued by the FCC regarding "Billed Party Preference for 0+ InterLATA Calls," FCC 92-465, CC Docket No. 92-77, Phase I (released November 6, 1992). A copy of the Report and Order is attached hereto.

In its decision, the FCC rejected the "0+ public domain proposal" to require interexchange carriers to (1) share with other interexchange carriers billing and validation data for any calling card usable with "0+" access or (2) switch from a "0+" access method to so-called proprietary methods such as "800," "950," or "10XXX" access codes. Use of proprietary access codes

ensures that the cardholders of a particular card-issuing carrier (such as MCI) will always reach that carrier. In contrast, with AT&T's "0+" access method, callers trying to place operator-assisted calls and charge the calls to their AT&T Card Issuer Identifier ("CIID") calling cards reach the networks of carriers other than AT&T, such as CNS, whenever they are dialing from telephones that are presubscribed to carriers other than AT&T.

CNS is a competitor of AT&T in the operator services market, and CNS is injured and adversely impacted by the FCC's failure in the Report and Order to require AT&T either to use a proprietary access code in connection with calls charged to its CIID calling card or to allow CNS to validate calls charged to the CIID calling card which reach CNS's network.

CNS requests that the Court review the FCC's November 6, 1992 Report and Order and set it aside as unlawful because it is arbitrary, capricious, an abuse of discretion, and otherwise in violation of the Administrative Procedure Act, 5 U.S.C. § 706.

Respectfully submitted,

CAPITAL NETWORK SYSTEM, INC.



Randolph J. May  
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December 3, 1992

Its Attorneys