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OFFICE OF GENERAL COUNSEL

M E M O R A N D U M

TO: Chief, Dockets Division

FROM: Associate General Counsel, Litigation Division

SUBJECT: National Cable Television Association, Inc. v. FCC & USA, No. 94-1750 and Mankato Citizens Telephone Company, Helm Telephone Company, Huntel Systems and United States Telephone Association v. FCC & USA, No. 95-1500 Filing of two new Petitions for Review filed in the United States Court of Appeals for the District of Columbia Circuit.

DATE: January 9, 1994

Docket No(s). CC 87-266

File No(s). (Rm-8221)

This is to advise you that on December 15, 1994 and January 3, 1995, National Cable Television Association, Inc. and Mankato Citizens Telephone Company, et al., filed Section 402(a) Petitions for Review in the D.C. Circuit of the FCC decision: In the Matter of Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58 and Amendment of Parts 32, 36, 61, 64 and 69 of the Commission's Rules to Establish and Implement Regulatory Procedures for Video Dialtone Service (MO&O on Reconsideration and Further Notice of Proposed Rulemaking), FCC 94-269, released November 7, 1994, 59 F.R. 63909 and 63971, published December 12, 1994.

Petitioners challenge the revised regulations for provision by telephone companies of Video Dialtone service.

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

The Court has docketed these cases as Nos. 94-1750 & 95-1001 and the attorney assigned to handle the litigation of these cases is Laurence N. Bourne.

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

United States Court of Appeals  
For the District of Columbia Circuit

FILED DEC 15 1994

RON GARVIN  
CLERK

National Cable Television Association, Inc. )

Petitioner, )

v. )

Federal Communications Commission and  
United States of America, )

Respondents. )

Case No. 94-

94-1750

**PETITION FOR REVIEW**

Pursuant to 47 U.S.C. §402(a) and 28 U.S.C. §§2342 and 2344, the National Cable Television Association, Inc. ("NCTA") hereby petitions this Court for review of a final decision of the Federal Communications Commission ("FCC" or "Commission") In the Matter of Telephone Company-Cable Television Cross-Ownership Rules, Section 63.54-63.58 and Amendment of Parts 32, 36, 61, 64, and 69 of the Commission's Rules to Establish and Implement Regulatory Procedures for Video Dialtone Service, Memorandum Opinion and Order on Reconsideration, FCC 94-269, released November 7, 1994 ("Memorandum Opinion"); 59 F.R. 63971 (Dec. 12, 1994).

A copy of the Commission's Memorandum Opinion is attached to this Petition as Exhibit A. Venue in this court is proper under 28 U.S.C. §2344.

NCTA is the principal trade association of the cable television industry in the United States. Its members include owners and operators of cable television systems serving over 80 percent of the nation's approximately 59 million cable television households, as well as cable television program networks, cable equipment suppliers, and others interested in or affiliated with the cable television industry.

In the Memorandum Opinion, the Commission revised its regulations for the provision by telephone companies of Video Dialtone ("VDT") service. In so acting, the agency, among other things, violated statutory provisions that allocate the costs of common carrier plant between federal and state jurisdictions, require that common carrier services are offered in a manner that is not unlawfully discriminatory, and subject cable operators providing cable service to regulation. NCTA participated in the proceeding giving rise to the Memorandum Opinion.

NCTA's members are aggrieved and injured by the Memorandum Opinion insofar as

- the Commission's decision exceeds the agency's statutory jurisdiction, and
- the Commission's decision is arbitrary and capricious, an abuse of discretion and otherwise contrary to law.

Petitioner respectfully requests that this court vacate and set aside the Commission's Memorandum Opinion, and grant such other and further relief as may be just and proper.

Respectfully submitted,

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November 9, 1994

United States Court of Appeals  
For the District of Columbia Circuit

REC'D JAN 03 1995

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

95-1001

RON GARVIN  
CLERK

No. 95-1001

*Filed: 1/3/95*

MANKATO CITIZENS TELEPHONE COMPANY,  
YELM TELEPHONE COMPANY,  
HUNTEL SYSTEMS and  
UNITED STATES TELEPHONE ASSOCIATION,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION  
and UNITED STATES OF AMERICA,

Respondents.

JOINT PETITION FOR REVIEW

Mankato Citizens Telephone Company, Yelm Telephone Company, HunTel Systems and United States Telephone Association jointly petition for review of a final order issued by the respondent Federal Communications Commission (FCC) in its proceeding entitled Telephone Company - Cable Television Cross-Ownership Rules (CC Docket No. 87-266). The FCC's order is entitled "Memorandum Opinion and Order on Reconsideration and Third Further Notice of Proposed Rulemaking."

The FCC's order was released on November 7, 1994 and published in the Federal Register at 59 Fed. Reg. 63909 (Dec. 12, 1994). A copy of the order is attached.

The FCC's order is made reviewable by 47 U.S.C. § 402.  
Venue lies in this Court under 28 U.S.C. § 2343.

Respectfully submitted,

MANKATO CITIZENS TELEPHONE COMPANY  
YELM TELEPHONE COMPANY  
HUNTEL SYSTEMS  
UNITED STATES TELEPHONE ASSOCIATION



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January 3, 1995