

OFFICE OF GENERAL COUNSEL

M E M O R A N D U M

TO: Chief, PIRS

FROM: Associate General Counsel, Litigation Division

SUBJECT: Adelphia Communications Corporation v. FCC & USA,
No. 95-1026. Filing a new Petition for Review in
the United States Court of Appeals for the District
of Columbia Circuit.

DATE: January 24, 1995

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Docket No(s). MM 92-266 and 93-215

File No(s).

This is to advise you that on January 9, 1995, Adelphia Communications Corporation, filed Section 402(a) Petition for Review in the United States Court of Appeals for the D.C. Circuit of the FCC decision: In the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, et al., (Sixth Order on Reconsideration, Fifth Report and Order, and Seventh Notice of Proposed Rulemaking), FCC 94-286, released November 18, 1994.

Petitioner challenges the Order that purports to regulate the manner in which cable operators offer their programming to the public and controls not only the price at which this programming is offered, but also the grouping or packages of program services offered to the customer.

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. 95-1026 and the attorney assigned to handle the litigation is Lawrence N. Bourne.

Daniel M. Armstrong

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

Mack

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

ADELPHIA COMMUNICATIONS CORPORATION,)
)
Petitioner,)
)
v.)
)
FEDERAL COMMUNICATIONS COMMISSION)
and the UNITED STATES OF AMERICA,)
)
Respondents.)

Docket No. 95-1026

Filed: 1/9/95

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PETITION OF ADELPHIA COMMUNICATIONS CORP.
FOR REVIEW OF AGENCY ACTION

Petitioner, ADELPHIA COMMUNICATIONS CORPORATION ("ADELPHIA"), pursuant to 47 U.S.C. § 402(a), 47 U.S.C. § 2342(1), 5 U.S.C. § 706, Fed. R. App. p. 15 and D.C. Cir. R. 15, hereby petitions this Court for review of the Federal Communications Commission's (FCC) "Sixth Order on Reconsideration and Fifth Report and Order, in the Matter of Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation" (MM Docket No. 92-266 and MM Docket No. 93-215), FCC 94-286 (the "Fifth Report and Order"), which was released on November 18, 1994 and published in the Federal Register on December 6, 1994. A true copy of the Fifth Report and Order is attached hereto as Exhibit A.

VENUE

Venue in this Court is proper under 28 U.S.C. § 2343.

PETITIONER

Adelphia, a Delaware corporation, is a holding company which, through subsidiaries, owns and operates cable television systems in Florida, Massachusetts, Michigan, New Jersey, New York, North Carolina, South Carolina, Ohio, Pennsylvania, Vermont and Virginia and is one of the ten largest cable television operators in the United States. Adelphia's systems are located primarily in small to medium-sized markets and rural and suburban areas.

PETITIONER'S STANDING AND GROUNDS ON WHICH
RELIEF IS SOUGHT

The Fifth Report and Order purports to regulate the manner in which cable operators, like Adelphia, offer their programming to the public. The Fifth Report and Order controls not only the price at which this programming is offered, but also the grouping or packaging of program services offered to the customer. Thus, it directly interferes with the cable operator's discretion in creating packages of program services to offer customers as well as with the customers' ability to select and pay for only the program services he or she desires.

Adelphia participated in the FCC rulemaking proceedings giving rise to the November 18, 1994 Fifth Report and Order, and is directly and materially affected by the challenged order and regulations. Adelphia is aggrieved and injured by those orders, and the regulations that they promulgate, amend and affirm, for reasons that include, but are not limited to, the following:

1. The Fifth Report and Order, and the regulations that it promulgates, amends and affirms are contrary to the language and intent of the 1992 Cable Act, and are arbitrary, capricious, abusive of discretion, discriminatory and are otherwise unlawful.

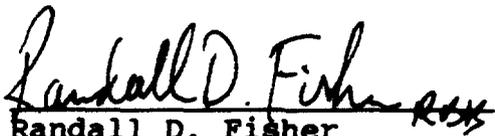
2. The Fifth Report and Order, and the regulations that it promulgates, amends and affirms, exceed the statutory jurisdiction and authority of the FCC.

3. The Fifth Report and Order, and the regulations that it promulgates, amends and affirms, violate the free speech rights of Adelphia and others, and are otherwise in violation of the rights of Adelphia and others under the First Amendment to the United States Constitution.

RELIEF REQUESTED

Adelphia respectfully requests that this Court vacate and set aside the Fifth Report and Order together with the regulations promulgated thereunder, and that the Court grant such other and further relief as may be proper and just in the circumstances.

Respectfully submitted,


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January 9, 1995