



FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF GENERAL COUNSEL

Memorandum

TO: Director, Reference Information Center
Chief, Wireline Competition Bureau

FROM: *DMA* Daniel M. Armstrong
Associate General Counsel

SUBJECT: *National Telecommunications Cooperative Association v. FCC & USA*, No. 08-1071. Filing of a Petition for Review in the United States Court of Appeals for the District of Columbia Circuit.

DATE: February 26, 2008

This is to advise you that, on February 22, 2008, the National Telecommunications Cooperative Association ("NTCA") filed a Petition for Review in the U.S. Court of Appeals for the District of Columbia Circuit pursuant to 47 U.S.C. § 402(a), of the following order: *In the Matter of Telephone Number Requirements for IP-Enabled Services Providers, et al.*, Report and Order, Declaratory Ruling, Order on Remand, and Notice of Proposed Rulemaking, WC Docket Nos. 07-243, 07-244, 04-36, CC Docket Nos. 95-116 and 99-200, 22 FCC Rcd 19531 (2007).

Congress has required all LECs to provide number portability, and the Commission has interpreted that requirement to mandate portability between wireline carriers and wireless carriers, which is known as "intermodal" portability. In *U.S. Telecom Ass'n v. FCC*, 400 F.3d 29 (D.C. Cir. 2005), the court ruled that the Commission had violated the Regulatory Flexibility Act by failing to conduct a Regulatory Flexibility Analysis prior to imposing intermodal porting requirements on small LECs. On remand, the Commission conducted the requisite analysis. NTCA, a trade group that represents small LECs, challenges the sufficiency of the Commission's analysis.

The Court has docketed this case as No. 08-1071. The attorney assigned to handle the litigation of this case is Joel Marcus.