

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 12-1258

September Term, 2012

FCC-12-52

Filed On: December 6, 2012

Accipiter Communications, Inc.,

Petitioner

v.

Federal Communications Commission and
United States of America,

Respondents

BEFORE: Garland, Brown, and Kavanaugh, Circuit Judges

ORDER

Upon consideration of the motion to dismiss and to defer filing of the administrative record, the response thereto, and the reply; and the motion to strike, or in the alternative for leave to file a surreply, the response thereto, and the reply, it is

ORDERED that the motion to dismiss be granted. An intent to challenge the underlying Transformation Order cannot be fairly inferred from the petition for review and the contemporaneous filings. Entravision Holdings, LLC v. FCC, 202 F.3d 311, 313 (D.C. Cir. 2000). To the extent the petitioner seeks review of the order denying in part reconsideration, it is well-established that denials of petitions for reconsideration are unreviewable except insofar as the request for reconsideration is based upon new evidence or changed circumstances. See id. Petitioner has not shown that the portion of its petition for reconsideration that was denied was based on new evidence or changed circumstances. It is

FURTHER ORDERED that the motion to strike and the motion to defer filing of the administrative record be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam