

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-1016**September Term, 2017****FCC-EB-13-MD-006****Filed On:** March 14, 2018

In re: NTCH, Inc.,

Petitioner

BEFORE: Henderson, Tatel, and Katsas, Circuit Judges**ORDER**

Upon consideration of the petition for a writ of mandamus, it is

ORDERED that the petition be denied. To the extent petitioner asserts the Federal Communications Commission has unreasonably delayed in acting on its pending application for review of a discovery decision, petitioner has not demonstrated that the Commission has a clear duty to act on that application since the proceeding was terminated in June 2016, much less that “the [Commission’s] delay is so egregious as to warrant mandamus.” Telecomms. Research & Action Ctr. v. FCC, 750 F.2d 70, 79 (D.C. Cir. 1984). To the extent petitioner seeks to compel the Commission to resolve its 2013 complaint, mandamus “may be invoked only if the statutorily prescribed remedy is clearly inadequate.” In re GTE Serv. Corp., 762 F.2d 1024, 1027 (D.C. Cir. 1985). In this action, petitioner could have filed an application for review of the Enforcement Bureau’s June 30, 2016 order by the Commission, and then sought judicial review of the Commission’s order in this court. See NTCH, Inc. v. FCC, 877 F.3d 408 (D.C. Cir. 2017). A writ of mandamus “may not be invoked as a mere substitute for appeal.” In re GTE Serv. Corp., 762 F.2d at 1027.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

Per Curiam