

FILED

UNITED STATES COURT OF APPEALS

OCT 22 2020

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITY OF PORTLAND,

Petitioner,

v.

UNITED STATES OF AMERICA;
FEDERAL COMMUNICATIONS
COMMISSION,

Respondents,

No. 18-72689

FCC No. 18-111

ORDER

CITY AND COUNTY OF SAN FRANCISCO; CITY OF ARCADIA; CITY OF BELLEVUE; CITY OF BROOKHAVEN; CITY OF BURIEN; CITY OF BURLINGAME; CITY OF CHICAGO; CITY OF CULVER CITY; CITY OF DUBUQUE; CITY OF GIG HARBOR; CITY OF KIRKLAND; CITY OF LAS VEGAS; CITY OF LINCOLN; CITY OF MONTEREY; CITY OF PHILADELPHIA; CITY OF PIEDMONT; CITY OF PLANO; CITY OF SAN BRUNO; CITY OF SAN JACINTO; CITY OF SAN JOSE; CITY OF SANTA MONICA; CITY OF SHAFTER; COUNTY OF LOS ANGELES; HOWARD COUNTY; MICHIGAN MUNICIPAL LEAGUE; CTIA - THE WIRELESS ASSOCIATION; TOWN OF FAIRFAX; TOWN OF HILLSBOROUGH,

Intervenors.

AMERICAN ELECTRIC POWER
SERVICE CORPORATION;
CENTERPOINT ENERGY HOUSTON
ELECTRIC, LLC; DUKE ENERGY
CORPORATION; ENTERGY
CORPORATION; ONCOR ELECTRIC
DELIVERY COMPANY, LLC;
SOUTHERN COMPANY; TAMPA
ELECTRIC COMPANY; VIRGINIA
ELECTRIC AND POWER COMPANY;
XCEL ENERGY SERVICES INC.,

Petitioners,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents,

VERIZON; USTELECOM-THE
BROADBAND ASSOCIATION,

Respondents-Intervenors.

No. 19-70490

FCC No. 18-111

SPRINT CORPORATION,

Petitioner,

v.

No. 19-70123

FCC No. FCC 18-133

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents,

CITY OF BOWIE, MARYLAND; CITY
OF EUGENE, OREGON; CITY OF
HUNTSVILLE, ALABAMA; CITY OF
WESTMINISTER, MARYLAND;
COUNTY OF MARIN, California; CITY
OF ARCADIA, California; CULVER
CITY, California; CITY OF BELLEVUE,
California; CITY OF BURIEN,
Washington; CITY OF BURLINGAME,
Washington; CITY OF GIG HARBOR,
Washington; CITY OF ISSAQUAH,
Washington; CITY OF KIRKLAND,
Washington; CITY OF LAS VEGAS,
Nevada; CITY OF LOS ANGELES,
California; CITY OF MONTEREY,
California; CITY OF ONTARIO,
California; CITY OF PIEDMONT,
California; CITY OF PORTLAND,
Oregon; CITY OF SAN JACINTO,
California; CITY OF SAN JOSE,
California; CITY OF SHAFTER,
California; CITY OF YUMA, Arizona;
COUNTY OF LOS ANGELES,
California; TOWN OF FAIRFAX,
California; CITY OF NEW YORK,

Intervenors.

VERIZON COMMUNICATIONS, INC.,

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents,

CITY OF ARCADIA, California; CITY
OF BELLEVUE, California; CITY OF
BURIEN, Washington; CITY OF
BURLINGAME, Washington; CITY OF
GIG HARBOR, Washington; CITY OF
ISSAQUAH, Washington; CITY OF
KIRKLAND, Washington; CITY OF LAS
VEGAS, Nevada; CITY OF LOS
ANGELES, California; CITY OF
MONTEREY, California; CITY OF
ONTARIO, California; CITY OF
PIEDMONT, California; CITY OF
PORTLAND, Oregon; CITY OF SAN
JACINTO, California; CITY OF SAN
JOSE, California; CITY OF SHAFTER,
California; CITY OF YUMA, Arizona;
COUNTY OF LOS ANGELES,
California; CULVER CITY, California;
CITY OF NEW YORK; TOWN OF
FAIRFAX, California,

Intervenors.

No. 19-70124

FCC No. 18-133

PUERTO RICO TELEPHONE
COMPANY, INC.,

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents,

CITY OF ARCADIA, California; CITY
OF BELLEVUE, California; CITY OF
BURIEN, Washington; CITY OF
BURLINGAME, California; CITY OF
GIG HARBOR, Washington; CITY OF
ISSAQUAH, Washington; CITY OF
KIRKLAND, Washington; CITY OF LAS
VEGAS, Nevada; CITY OF LOS
ANGELES, California; CITY OF
MONTEREY, California; CITY OF
ONTARIO, California; CITY OF
PIEDMONT, California; CITY OF
PORTLAND, Oregon; CITY OF SAN
JACINTO, California; CITY OF SAN
JOSE, California; CITY OF SHAFTER,
California; CITY OF YUMA, Arizona;
COUNTY OF LOS ANGELES,
California; CULVER CITY, California;
TOWN OF FAIRFAX, California; CITY
OF NEW YORK,

Intervenors.

No. 19-70125

FCC No. FCC 18-133

CITY OF SEATTLE, Washington; CITY OF TACOMA, Washington; KING COUNTY, Washington; LEAGUE OF OREGON CITIES; LEAGUE OF CALIFORNIA CITIES; LEAGUE OF ARIZONA CITIES AND TOWNS,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION; UNITED STATES OF AMERICA,

Respondents,

CITY OF BAKERSFIELD, California; CITY OF COCONUT CREEK, FLORIDA; CITY OF LACEY, Washington; CITY OF OLYMPIA, Washington; CITY OF RANCHO PALOS VERDES, California; CITY OF TUMWATER, Washington; COLORADO COMMUNICATIONS AND UTILITY ALLIANCE; RAINIER COMMUNICATIONS COMMISSION; COUNTY OF THURSTON, Washington; CITY OF ARCADIA, California; CITY OF BELLEVUE, Washington; CITY OF BURIEN, Washington; CITY OF BURLINGAME, California; CITY OF GIG HARBOR, Washington; CITY OF ISSAQUAH, Washington; CITY OF KIRKLAND, Washington; CITY OF LAS VEGAS, Nevada; CITY OF LOS

No. 19-70136

FCC No. 18-133

ANGELES, California; CITY OF MONTEREY, California; CITY OF ONTARIO, California; CITY OF PIEDMONT, California; CITY OF PORTLAND, Oregon; CITY OF SAN JACINTO, California; CITY OF SAN JOSE, California; CITY OF SHAFTER, California; CITY OF YUMA, Arizona; COUNTY OF LOS ANGELES, California; CULVER CITY, California; TOWN OF FAIRFAX, California; CITY OF NEW YORK,

Intervenors.

CITY OF SAN JOSE, California; CITY OF ARCADIA, California; CITY OF BELLEVUE, Washington; CITY OF BURIEN, Washington; CITY OF BURLINGAME, California; CULVER CITY, California; TOWN OF FAIRFAX, California; CITY OF GIG HARBOR, Washington; CITY OF ISSAQUAH, Washington; CITY OF KIRKLAND, Washington; CITY OF LAS VEGAS, Nevada; CITY OF LOS ANGELES, California; COUNTY OF LOS ANGELES, California; CITY OF MONTEREY, California; CITY OF ONTARIO, California; CITY OF PIEDMONT, California; CITY OF PORTLAND, Oregon; CITY OF SAN JACINTO, California; CITY OF SHAFTER, California; CITY OF YUMA, Arizona,

No. 19-70144

FCC No. FCC 18-133

Petitioners,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents,

CTIA - THE WIRELESS
ASSOCIATION; COMPETITIVE
CARRIERS ASSOCIATION; SPRINT
CORPORATION; VERIZON
COMMUNICATIONS, INC.; CITY OF
NEW YORK; WIRELESS
INFRASTRUCTURE ASSOCIATION,

Intervenors.

CITY AND COUNTY OF SAN
FRANCISCO,

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents.

No. 19-70145

FCC No. 18-133

CITY OF HUNTINGTON BEACH,

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents,

CITY OF ARCADIA, California; CITY
OF BELLEVUE, Washington; CITY OF
BURIEN, Washington; CITY OF
BURLINGAME, California; CITY OF
GIG HARBOR, Washington; CITY OF
ISSAQUAH, Washington; CITY OF
KIRKLAND, Washington; CITY OF LAS
VEGAS, Nevada; CITY OF LOS
ANGELES, California; CITY OF
MONTEREY, California; CITY OF
ONTARIO, California; CITY OF
PIEDMONT, California; CITY OF
PORTLAND, Oregon; CITY OF SAN
JACINTO, California; CITY OF SAN
JOSE, California; CITY OF SHAFTER,
California; CITY OF YUMA, Arizona;
COUNTY OF LOS ANGELES,
California; CULVER CITY, California;
TOWN OF FAIRFAX, California; CITY
OF NEW YORK,

Intervenors.

No. 19-70146

FCC No. 18-133

MONTGOMERY COUNTY, Maryland

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents.

No. 19-70147

FCC No. FCC 18-133

AT&T SERVICES, INC.,

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents,

No. 19-70326

FCC Nos. 18-133
83-FR-51867

CITY OF BALTIMORE, MARYLAND;
CITY AND COUNTY OF SAN
FRANCISCO, California; MICHIGAN
MUNICIPAL LEAGUE; CITY OF
ALBUQUERQUE, NEW MEXICO;
NATIONAL LEAGUE OF CITIES; CITY
OF BAKERSFIELD, California; TOWN
OF OCEAN CITY, MARYLAND; CITY
OF BROOKHAVEN, GEORGIA; CITY
OF COCONUT CREEK, FLORIDA;

CITY OF DUBUQUE, IOWA; CITY OF EMERYVILLE, CALIFORNIA; CITY OF FRESNO, CALIFORNIA; CITY OF LA VISTA, NEBRASKA; CITY OF LACEY, WASHINGTON; CITY OF MEDINA, WASHINGTON; CITY OF OLYMPIA, WASHINGTON; CITY OF PAPILLION, NEBRASKA; CITY OF PLANO, TEXAS; CITY OF RANCHO PALOS VERDES; CITY OF ROCKVILLE, MARYLAND; CITY OF SAN BRUNO, CALIFORNIA; CITY OF SANTA MONICA, CALIFORNIA; CITY OF SUGARLAND, TEXAS; CITY OF TUMWATER, WASHINGTON; CITY OF WESTMINSTER, MARYLAND; COLORADO COMMUNICATIONS AND UTILITY ALLIANCE; CONTRA COSTA COUNTY, CALIFORNIA; COUNTY OF MARIN, CALIFORNIA; INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION; INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION; LEAGUE OF NEBRASKA MUNICIPALITIES; NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS; RAINIER COMMUNICATIONS COMMISSION; THURSTON COUNTY, WASHINGTON; TOWN OF CORTE MADERA, CALIFORNIA; TOWN OF HILLSBOROUGH, CALIFORNIA; TOWN OF YARROW POINT, WASHINGTON; CITY OF ARCADIA, CALIFORNIA; CITY OF BELLEVUE, WASHINGTON; CITY OF BURIEN,

WASHINGTON; CITY OF
BURLINGAMER, CALIFORNIA; CITY
OF CULVER CITY , CALIFORNIA;
CITY OF GIG HARBOR,
WASHINGTON; CITY OF ISSAQUAH,
WASHINGTON; CITY OF KIRKLAND,
WASHINGTON; CITY OF LAS VEGAS,
NEVADA; CITY OF LOS ANGELES,
CALIFORNIA; CITY OF MONTEREY,
CALIFORNIA; CITY OF ONTARIO,
CALIFORNIA; CITY OF PIEDMONT,
CALIFORNIA; CITY OF PORTLAND,
OREGON; CITY OF SAN JACINTO,
CALIFORNIA; CITY OF SAN JOSE,
CALIFORNIA; CITY OF SHAFTER,
CALIFORNIA; CITY OF YUMA,
ARIZONA; COUNTY OF LOS
ANGELES, CALIFORNIA; TOWN OF
FAIRFAX, CALIFORNIA,

Intervenors.

AMERICAN PUBLIC POWER
ASSOCIATION,

Petitioner,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents,

No. 19-70339

FCC Nos. 18-133
83-FR-51867

CITY OF ALBUQUERQUE, NEW MEXICO; NATIONAL LEAGUE OF CITIES; CITY OF BROOKHAVEN, GEORGIA; CITY OF BALTIMORE, MARYLAND; CITY OF DUBUQUE, IOWA; TOWN OF OCEAN CITY, MARYLAND; CITY OF EMERYVILLE, CALIFORNIA; MICHIGAN MUNICIPAL LEAGUE; TOWN OF HILLSBOROUGH, CALIFORNIA; CITY OF LA VISTA, NEBRASKA; CITY OF MEDINA, WASHINGTON; CITY OF PAPILLION, NEBRASKA; CITY OF PLANO, TEXAS; CITY OF ROCKVILLE, MARYLAND; CITY OF SAN BRUNO, CALIFORNIA; CITY OF SANTA MONICA, CALIFORNIA; CITY OF SUGARLAND, TEXAS; LEAGUE OF NEBRASKA MUNICIPALITIES; NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS; CITY OF BAKERSFIELD, California; CITY OF FRESNO, CALIFORNIA; CITY OF RANCHO PALOS VERDES; CITY OF COCONUT CREEK, FLORIDA; CITY OF LACEY, WASHINGTON; CITY OF OLYMPIA, WASHINGTON; CITY OF TUMWATER, WASHINGTON; TOWN OF YARROW POINT, WASHINGTON; THURSTON COUNTY, WASHINGTON; COLORADO COMMUNICATIONS AND UTILITY ALLIANCE; RAINIER COMMUNICATIONS COMMISSION; CITY AND COUNTY OF SAN FRANCISCO, California; COUNTY OF MARIN, CALIFORNIA; CONTRA

COSTA COUNTY, California; TOWN OF CORTE MADERA, CALIFORNIA; CITY OF WESTMINSTER, MARYLAND,

Intervenors.

CITY OF AUSTIN, TEXAS; CITY OF ANN ARBOR, MICHIGAN; COUNTY OF ANNE ARUNDEL, MARYLAND; CITY OF ATLANTA, GEORGIA; CITY OF BOSTON, MASSACHUSETTS; CITY OF CHICAGO, ILLINOIS; CLARK COUNTY, NEVADA; CITY OF COLLEGE PARK, MARYLAND; CITY OF DALLAS, TEXAS; DISTRICT OF COLUMBIA; CITY OF GAITHERSBURG, MARYLAND; HOWARD COUNTY, MARYLAND; CITY OF LINCOLN, NEBRASKA; MONTGOMERY COUNTY, MARYLAND; CITY OF MYRTLE BEACH, SOUTH CAROLINA; CITY OF OMAHA, NEBRASKA; CITY OF PHILADELPHIA, PENNSYLVANIA; CITY OF RYE, NEW YORK; CITY OF SCARSDALE, NEW YORK; CITY OF SEAT PLEASANT, MARYLAND; CITY OF TAKOMA PARK, MARYLAND; TEXAS COALITION OF CITIES FOR UTILITY ISSUES; MERIDIAN TOWNSHIP, MICHIGAN; BLOOMFIELD TOWNSHIP, MICHIGAN; MICHIGAN TOWNSHIPS ASSOCIATION; MICHIGAN COALITION TO PROTECT PUBLIC

No. 19-70341

FCC Nos. 18-133
83-FR-51867

RIGHTS-OF-WAY,

Petitioners,

v.

FEDERAL COMMUNICATIONS
COMMISSION; UNITED STATES OF
AMERICA,

Respondents,

CITY OF ALBUQUERQUE, NEW
MEXICO; NATIONAL LEAGUE OF
CITIES; CITY OF BROOKHAVEN,
GEORGIA; CITY OF BALTIMORE,
MARYLAND; CITY OF DUBUQUE,
IOWA; TOWN OF OCEAN CITY,
MARYLAND; CITY OF EMERYVILLE,
CALIFORNIA; MICHIGAN
MUNICIPAL LEAGUE; TOWN OF
HILLSBOROUGH, CALIFORNIA; CITY
OF LA VISTA, NEBRASKA; CITY OF
MEDINA, WASHINGTON; CITY OF
PAPILLION, NEBRASKA; CITY OF
PLANO, TEXAS; CITY OF
ROCKVILLE, MARYLAND; CITY OF
SAN BRUNO, CALIFORNIA; CITY OF
SANTA MONICA, CALIFORNIA; CITY
OF SUGARLAND, TEXAS; LEAGUE
OF NEBRASKA MUNICIPALITIES;
NATIONAL ASSOCIATION OF
TELECOMMUNICATIONS OFFICERS
AND ADVISORS; CITY OF
BAKERSFIELD, California; CITY OF
FRESNO, CALIFORNIA; CITY OF

RANCHO PALOS VERDES; CITY OF COCONUT CREEK, FLORIDA; CITY OF LACEY, WASHINGTON; CITY OF OLYMPIA, WASHINGTON; CITY OF TUMWATER, WASHINGTON; TOWN OF YARROW POINT, WASHINGTON; THURSTON COUNTY, WASHINGTON; COLORADO COMMUNICATIONS AND UTILITY ALLIANCE; RAINIER COMMUNICATIONS COMMISSION; CITY AND COUNTY OF SAN FRANCISCO, California; COUNTY OF MARIN, CALIFORNIA; CONTRA COSTA COUNTY, CALIFORNIA; TOWN OF CORTE MADERA, CALIFORNIA; CITY OF WESTMINSTER, MARYLAND,

Intervenors.

CITY OF EUGENE, OREGON; CITY OF HUNTSVILLE, ALABAMA; CITY OF BOWIE, MARYLAND,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION; UNITED STATES OF AMERICA,

Respondents,

No. 19-70344

FCC Nos. 18-133
83-FR-51867

CITY OF ALBUQUERQUE, NEW MEXICO; NATIONAL LEAGUE OF CITIES; CITY OF BROOKHAVEN, GEORGIA; CITY OF BALTIMORE, MARYLAND; CITY OF DUBUQUE, IOWA; TOWN OF OCEAN CITY, MARYLAND; CITY OF EMERYVILLE, CALIFORNIA; MICHIGAN MUNICIPAL LEAGUE; TOWN OF HILLSBOROUGH, CALIFORNIA; CITY OF LA VISTA, NEBRASKA; CITY OF MEDINA, WASHINGTON; CITY OF PAPILLION, NEBRASKA; CITY OF PLANO, TEXAS; CITY OF ROCKVILLE, MARYLAND; CITY OF SAN BRUNO, CALIFORNIA; CITY OF SANTA MONICA, CALIFORNIA; CITY OF SUGARLAND, TEXAS; LEAGUE OF NEBRASKA MUNICIPALITIES; NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS; CITY OF BAKERSFIELD; CITY OF FRESNO, CALIFORNIA; CITY OF RANCHO PALOS VERDES; CITY OF COCONUT CREEK, FLORIDA; CITY OF LACEY, WASHINGTON; CITY OF OLYMPIA, WASHINGTON; CITY OF TUMWATER, WASHINGTON; TOWN OF YARROW POINT, WASHINGTON; THURSTON COUNTY, WASHINGTON; COLORADO COMMUNICATIONS AND UTILITY ALLIANCE; RAINIER COMMUNICATIONS COMMISSION; CITY AND COUNTY OF SAN FRANCISCO, California; COUNTY OF MARIN, CALIFORNIA; CONTRA

COSTA COUNTY, CALIFORNIA;
TOWN OF CORTE MADERA,
CALIFORNIA; CITY OF
WESTMINISTER, MARYLAND,

Intervenors.

Before: SCHROEDER, BYBEE, and BRESS, Circuit Judges.

The panel has voted to deny the petition for panel rehearing by American Electric Power Service Corporation and Southern Company.

Judge Bress has voted to deny the petition for rehearing en banc by American Public Power Association, and Judges Schroeder and Bybee have so recommended.

Judge Bress votes to grant the petition for rehearing en banc by City of Portland, et al.

Judges Schroeder and Bybee recommend denying the petition for rehearing en banc by City of Portland, et al.

The full court has been advised of the petitions for rehearing en banc and no judge has requested a vote on whether to rehear the matters en banc. Fed. R. App. P. 35.

The petition for panel rehearing by American Electric Power Service Corporation and Southern Company is **DENIED**.

The petition for rehearing en banc by American Public Power Association is **DENIED.**

The petition for rehearing en banc by City of Portland, et al. is **DENIED.**