## FOR PUBLICATION

## UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRAND X INTERNET SERVICES,

Petitioner,

v.

FEDERAL COMMUNICATIONS COMMISSION,

Respondent.

No. 02-70518 FCC No. FCC-Act 2-77

EARTHLINK, INC.,

Petitioner,

SBC COMMUNICATIONS, INC.,

Intervenor,

v.

FEDERAL COMMUNICATIONS COMMISSION,

Respondent.

No. 02-70684 FCC No. FCC-02-77

Verizon Telephone Companies, Verizon Internet Solutions d/b/a Verizon.Net,

Petitioners,

SBC COMMUNICATIONS, INC.,

Intervenor,

No. 02-70685 FCC No. FCC-02-1100

v.

FEDERAL COMMUNICATIONS COMMISSION,

Respondent.

Consumer Federation of America; Consumers Union; Center for Digital Democracy,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION,

Respondent.

No. 02-70686 FCC No. FCC-02-77

PEOPLE OF THE STATE OF CALIFORNIA EX REL. BILL LOCKYER; PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION; UNITED STATES OF AMERICA,

Respondents.

No. 02-70879 FCC Nos. GN-00185 CS-02-52 NATIONAL LEAGUE OF CITIES; NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND Advisors; United States Conference of Mayors; National Association of Counties; Texas COALITION OF CITIES FOR UTILITY Issues,

Petitioners,

No. 02-71425

FCC Nos. GN-00-185 CS-02-52

v.

FEDERAL COMMUNICATIONS Commission,

Respondent.

CONESTOGA TOWNSHIP; PROVIDENCE TOWNSHIP; MARTIC TOWNSHIP; BUCKINGHAM TOWNSHIP; EAST HEMPFIELD TOWNSHIP,

Petitioners,

v.

FEDERAL COMMUNICATIONS COMMISSION, and UNITED STATES OF AMERICA,

Respondents.

No. 02-72251

FCC No. FCC-02-52 **ORDER** 

On Remand from the Supreme Court of the United States

Filed January 23, 2006

Before: Richard D. Cudahy,\* Diarmuid F. O'Scannlain, and Sidney R. Thomas, Circuit Judges.

## **ORDER**

In accordance with the Supreme Court's decision in *National Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 125 S. Ct. 2688 (2005), the Federal Communications Commission's declaratory ruling is **AFFIRMED**.

<sup>\*</sup>The Honorable Richard D. Cudahy, Senior United States Circuit Judge for the Seventh Circuit, sitting by designation.

PRINTED FOR ADMINISTRATIVE OFFICE—U.S. COURTS BY THOMSON/WEST—SAN FRANCISCO

The summary, which does not constitute a part of the opinion of the court, is copyrighted © 2006 Thomson/West.